

BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

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COMMISSION MEETING
JUNE 21, 2011

BE IT REMEMBERED that the above entitled matter came on for hearing on the 21st day of June, 2011, beginning at 10:39 A.M. at 6100 Guadalupe, Building E, Austin, Travis County, Texas, and the following proceedings were reported by SHERRI SANTMAN FISHER, Certified Shorthand Reporter for the State of Texas.

APPEARANCES

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Commissioners:

- ROLANDO PABLOS
- ROBERT SCHMIDT
- RONALD F. EDERER
- MIKE MARTIN
- SCOTT HAYWOOD
- VICKI WEINBERG
- ANN O'CONNELL
- ALLAN POLUNSKY

1 CHAIRMAN PABLOS: Okay, folks. The time
2 is 10:39. At this time I'd like to call today's Racing
3 Commission meeting to order.

4 Carolyn, will you please call roll?

5 MS. WEISS: Commissioner Ron Ederer?

6 COMMISSIONER EDERER: Present.

7 MS. WEISS: Commissioner Scott Haywood?

8 COMMISSIONER HAYWOOD: Present.

9 MS. WEISS: Commissioner Gloria Hicks?

10 Commissioner Mike Martin?

11 COMMISSIONER MARTIN: Present.

12 MS. WEISS: Commissioner Ann O'Connell?

13 MS. O'CONNELL: Present.

14 MS. WEISS: Commissioner Allan Polunsky?

15 MR. POLUNSKY: Here.

16 MS. WEISS: Commissioner Vicki Weinberg?

17 Vice-Chairman Robert Schmidt? Chairman Rolando

18 Pablos?

19 CHAIRMAN PABLOS: Here.

20 And will you call on Commissioner
21 Weinberg and Commissioner Schmidt one more time?

22 MS. WEISS: Yes, sir, I will.

23 Commissioner Weinberg?

24 COMMISSIONER WEINBERG: Present.

25 MS. WEISS: Vice-Chairman Robert

1 Schmidt?

2 VICE-CHAIRMAN SCHMIDT: Present.

3 MS. WEISS: Thank you.

4 CHAIRMAN PABLOS: Do we have a quorum?

5 MS. WEISS: We do, sir.

6 CHAIRMAN PABLOS: Welcome. Good
7 morning. And happy summer.

8 Let's see. Is there anyone signed up to
9 speak for public comment? I have one card. Are there
10 any others?

11 Okay. Mr. John Cardwell with Global
12 Gaming?

13 MR. CARDWELL: Good morning,
14 Commissioners. I just wanted to report back to you --
15 report back to you since our last meeting. The
16 transaction closed. The management committee is in
17 place and has been meeting. We have a meeting
18 scheduled next week with your staff to make a formal
19 presentation of the changes and improvements that we've
20 made. I think you'll be very pleased.

21 The improvements include changes to the
22 pavilion, to the backside, and to the main grandstand.
23 So when you come back for your next meeting, I believe
24 your staff will be reporting that we'll be moving
25 forward on that.

1 Thank you very much.

2 CHAIRMAN PABLOS: Commissioners, are
3 there any questions of Mr. Cardwell?

4 I would like to say I had a chance to
5 attend last week and I was very impressed. There was a
6 huge crowd. I think there was a concert there. And I
7 was very proud to know that people were out there
8 working and horses were running. So congratulations.
9 Thank you very much.

10 MR. CARDWELL: Thank you, Commissioner.

11 CHAIRMAN PABLOS: Next we'll move on to
12 Item III, general business, report by the executive
13 director and staff regarding administrative matters.

14 I'd like to recognize Chuck Trout,
15 please.

16 MR. TROUT: Good morning, Commissioners.

17 We provided four administrative reports
18 in your packets covering budget and finance, wagering
19 statistics, enforcement actions, and racetrack
20 inspections. If you have any questions, the
21 appropriate members of the staff are here to answer
22 them for you.

23 CHAIRMAN PABLOS: Commissioners, are
24 there any questions? Items III-A through D, any
25 questions on that, Commissioners?

1 Okay. Hearing none, Chuck, I'll go to
2 Item F now, please, so you can give us the report on
3 sunset and then we'll go back to E, report by rules
4 committee.

5 MR. TROUT: Yes, sir.

6 Commissioners, as you know, the agency's
7 sunset bill was our top priority during the session.
8 The governor did sign our sunset bill last Friday. And
9 the bill continues the Racing Commission for six
10 years. It also changes the Commission's method of
11 finance, eliminating uncashed winning tickets as a
12 source of revenue.

13 It requires the Commission to identify
14 tracks as active or inactive and establish a renewal
15 process for inactive tracks. It clarifies the
16 Commission's authority and ability to revoke a
17 racetrack license. It clarifies that all unlicensed
18 entities are prohibited from accepting wagers placed by
19 Texas residents.

20 It provides broad authority to the
21 executive director to review and modify decisions of
22 the stewards and judges. It amends the Racing Act to
23 restrict sweeps of the agency's account to those
24 unappropriated amounts above \$750,000. And it limits
25 the Commission's licensure of occupations to those that

1 could influence racing or that have significant access
2 to the backside.

3 Staff has asked the Chair to create two
4 ad hoc committees to prepare rules for implementing the
5 bill. One committee will address licensing issues.
6 The other will handle financial issues. Our law -- the
7 new sunset law will go into effect September the 1st of
8 this year.

9 In other legislative developments, the
10 governor signed HB 254. This is Representative
11 Hilderbran's bill creating the Texas Derbies. While
12 this bill also takes effect on September 1, the initial
13 derby cannot be held until after January 1, 2015. And
14 in discussions with Representative Hilderbran, I
15 believe that they will be making modifications to this
16 bill in upcoming -- in the next legislative session.

17 Staff continues to monitor the
18 Legislature's progress during the first special
19 session. To date there have been no major developments
20 relating to this Commission or the regulated industry.

21 I'd be happy to answer any questions.

22 CHAIRMAN PABLOS: Commissioners, are
23 there any questions regarding the sunset legislation or
24 any legislative matters?

25 Hearing none, thank you, Chuck.

1 Now we'll move on to Item III-E, report
2 by the rules committee.

3 I'd like to recognize Commissioner
4 O'Connell to provide the report, please.

5 MS. O'CONNELL: Thank you.

6 The rules committee met on June 7th and
7 the report of our meeting is in the meeting materials
8 at Roman Numeral III, page 10.

9 At the meeting we are still reviewing
10 Subchapter B of Chapter 321, which is the totalisator
11 requirements and the operating environment. That
12 subchapter is still being vetted on a national scale
13 and Carol Olewin is doing a great job, along with Sammy
14 Jackson, running that up the chain through RCI, through
15 all the many committees that it needs to go through in
16 order for us to get comment and get all of the input
17 that we can possibly get to make them the best
18 standards that they can be.

19 With the exception of that subchapter,
20 the committee is -- has brought to a close its review
21 of Chapter 307, Proceedings Before the Commission,
22 Chapters -- the other subchapters of Chapter 321,
23 Pari-Mutuel Wagering, and Chapter 323, Disciplinary
24 Action and Enforcement. So today we are recommending
25 that the Commission vote to publish notice of the

1 readoption of those chapters.

2 We're also ready to move on to initiate a
3 rule review of three other chapters. That would be
4 Chapter 301, Definitions, Chapter 303, General
5 Provisions, and Chapter 319, Veterinary Practices and
6 Drug Testing. So today we are -- on the agenda is an
7 action item to publish notice of intent to review
8 these -- to open a rule review of these chapters.

9 That concludes my report.

10 CHAIRMAN PABLOS: Thank you.

11 Commissioners, any questions?

12 Hearing none, thank you, Commissioner
13 O'Connell. I thank you for your good work and your
14 committee's good work.

15 I see that Mr. Rufus just walked in and
16 so we'll move on to Item III-G. You're up. Approval
17 of internal auditing charter.

18 I'd like to recognize Monday Rufus, as
19 he's the agency's contracted internal auditor, to
20 present the internal auditing charter.

21 MR. RUFUS: Good morning, Commissioners.

22 CHAIRMAN PABLOS: Good morning.

23 MR. RUFUS: My name is Monday Rufus with
24 Monday N. Rufus, PC.

25 The Texas Internal Auditing Act,

1 Government Code 2102, requires the internal auditor to
2 comply with internal audit standards and those
3 standards are promulgated by the Institute of Internal
4 Auditors, called IIA. And it requires the
5 establishment of an internal audit charter. And the
6 charter outlines the responsibility and authority of
7 the internal auditor and also the agency.

8 So if we go to page two of the charter,
9 the page two outlines the establishment and also the
10 applicable standards that the internal auditor for the
11 agency is required to comply with. In that sense, the
12 internal audit function is established by the agency,
13 the Texas Racing Commission. The Commission is also
14 required to establish that charter which outlines
15 exactly what the responsibilities of the internal
16 auditor is and also the responsibility of the agency.

17 The internal auditor is required
18 periodically to review the charter to make sure that
19 the agency is still complying with the Institute of
20 Internal Auditors' standards.

21 In 2010 the Institute of Internal
22 Auditors made significant changes to the standards that
23 we are required to comply with and those standards are
24 effective in 2011. As a result, we did recommend to
25 the agency to make some changes to the internal audit

1 charter that was approved way back when. So those
2 changes have been made and those changes require the
3 approval of the Commission and should be signed by the
4 Chair of the Commission.

5 I'll be more than happy to entertain any
6 questions that you may have.

7 CHAIRMAN PABLOS: Okay. Before we do
8 that, I'd like to ask Ms. Harris-Curtsinger, would you
9 please -- okay. Do you have a microphone there?

10 MS. HARRIS-CURTSINGER: Yes.

11 CHAIRMAN PABLOS: Would you give us some
12 background on this, please, so that we can understand
13 from a contextual perspective where we've been and
14 where we are today?

15 MS. HARRIS-CURTSINGER: Absolutely.

16 We are required to have an internal
17 auditor for the agency; and through the procurement
18 process, Monday Rufus -- and you all approved Monday
19 Rufus as our internal auditor.

20 The institute -- as Monday referred to,
21 the standards for professional practice of internal
22 auditing standards are what our internal auditor goes
23 by to perform the audits for the agency. And that
24 association has made, as Mr. Rufus stated, several
25 significant changes to those standards. And so he has

1 prepared and updated a charter on behalf of the agency
2 and that is what you find in your packet.

3 This is common and it is done for each
4 agency that is required -- and most agencies -- all
5 agencies are required to have an internal auditor or an
6 audit practice or procedure. And so this is in line
7 with the standards that Mr. Rufus referenced and I have
8 reviewed the charter that he has provided and concur
9 with his changes.

10 CHAIRMAN PABLOS: Thank you.

11 Commissioners, are there any technical or
12 clarifying questions of either one, please?

13 Okay. Thank you very much. Thank you,
14 Mr. Rufus.

15 Is there anyone signed up to speak for
16 this item?

17 Okay. So at this time we've heard about
18 the auditing charter. I'd like to entertain a motion.

19 Is there a motion, Commissioners?

20 VICE-CHAIRMAN SCHMIDT: Move to approve.

21 CHAIRMAN PABLOS: We have a motion to
22 approve by Schmidt. Second --

23 COMMISSIONER EDERER: Second.

24 CHAIRMAN PABLOS: Seconded by Ederer.

25 Is there any discussion on this item,

1 Commissioners?

2 Hearing none, I'll bring this up for a
3 vote. All those in favor please signify by saying
4 aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN PABLOS: Any opposed?

7 Okay. That motion carries.

8 We'll move on to Item H. As we've heard
9 from Chuck, the governor signed our sunset bill and now
10 it's time to implement the items within that. And so
11 I've asked Commissioners O'Connell and Haywood to take
12 part in this ad hoc committee for implementing HB
13 2271.

14 Most importantly, the sunset bill asks us
15 to consult with members of the racing industry and
16 other key stakeholders in developing the license
17 renewal process that is contemplated in the
18 Commission -- in the sunset report -- bill, rather.

19 So I'd like to ask you to please take the
20 lead in doing so. And I'd also like to ask you to
21 follow through with determining the types of actions
22 that constitute good faith efforts towards continuing
23 live racing, which is very important -- we're going to
24 talk about that later on -- determining which
25 occupations require a Commission license -- there's

1 been a lot of discussion about that -- and also
2 identifying the conditions for requiring security bonds
3 from the racetracks.

4 And so, Commissioners O'Connell and
5 Haywood, I thank you. Please report back to us next
6 meeting as to your progress.

7 So at this time I would also like to move
8 on to Item I, where we have resurrected a finance
9 committee. I'll set up an ad hoc committee; and
10 Commissioners Ederer and Hicks have agreed to serve, to
11 volunteer, as they were part of this in the past.

12 The issues that I'd like for the
13 committee to address include fee adjustments to
14 eliminate uncashed tickets as revenue, to eliminate
15 some of the occupational licenses, to establish
16 racetrack license renewal fees, to fully compensate DPS
17 for background checks, and to adjust for changes in the
18 industry's race dates.

19 So that ad hoc committee will focus on
20 that. And, Commissioner Ederer, I would ask you to
21 please come back during the next meeting to give us an
22 update as to your progress. And I thank you for
23 serving.

24 At this time we'll move on to Item IV-A,
25 proceeding on racetracks, request by the Austin Jockey

1 Club to modify its 2011 live racing schedule.

2 At this time I'd like to recognize Sammy
3 Jackson to lay out the item.

4 Sammy, please?

5 MR. JACKSON: Good morning,
6 Commissioners.

7 Under Tab IV-1 is a letter from the
8 Austin Jockey Club requesting that the Commission
9 eliminate its 12 race dates granted for July 29th,
10 2011 -- excuse me -- requesting that the Commission
11 eliminate its 12 race dates granted for July 29th,
12 2011, and concluding on August 21st, 2011.

13 Staff has reviewed their request and
14 believes that the elimination of these dates would
15 severely handicap the Commission and the executive
16 director's ability to take action against the Austin
17 Jockey Club for failing to initiate construction and
18 conducting its approved race dates.

19 With a similar request that came before
20 the Commission last year for 2011 race dates from
21 Saddle Brook Park, staff recommended the same -- made
22 this same statement and recommended that we disapprove
23 this request. Staff is making that same recommendation
24 today.

25 If there's any questions, I'd be more

1 than happy to answer them.

2 CHAIRMAN PABLOS: Can you expound a
3 little bit more on that, Sammy, please?

4 MR. JACKSON: Yes, sir.

5 When we issued these dates, which was in
6 September of 2009, this was right after the sunset
7 legislation failed during the 81st session. One of the
8 heated contested arguments regarding that sunset bill
9 was the removal of and going to an annual license
10 instead of a perpetual license. And one of the things
11 during the sunset review process was that the -- that
12 came forward was that the Commission did not have
13 enough stroke in the act to take action against tracks
14 who had not built.

15 During that time, because of sunset bill
16 review, we were charged with reviewing the rules and
17 regs to see what was in the Racing Commission regs that
18 could help. There was only one rule; and it's a rule,
19 not within the act, that said that a track failing to
20 prepare to run the dates granted could have an
21 administrative penalty or be brought before the
22 Commission for revoke -- revoking that license.

23 So based on that piece of work that we
24 had in the rule book, we moved forward with making a
25 recommendation to issue race dates 23 months out for

1 2011. And those dates were issued in September of
2 2009.

3 There was a lengthy discussion at the
4 following Commission meeting because we tabled one
5 section on some of the inactive tracks. And there was
6 a lengthy discussion -- I brought the transcript
7 today -- in October of 2009 between Dr. Schmidt,
8 Commissioner Ederer, then the DPS Commissioner
9 Commissioner Clowe, as well as our veterinarian
10 Dr. Carter, and as well as you, Mr. Chair, about this
11 scenario and what was going on.

12 I'll just hit a couple of the
13 highlights. A couple of the points that were made was
14 that, you know, should we be actually issuing dates to
15 tracks who weren't built, not knowing that they could
16 get built. That was very well vetted.

17 The other point that came up was, by
18 going ahead and initiating this, the tracks knew with
19 that rule on the book that they had been given a time
20 clock of what they needed to start doing.

21 In that rule, it also said about -- there
22 was an expression of making a good faith effort to
23 build your facility. There was a lengthy discussion
24 about building the simulcast area first would be
25 considered a good faith effort.

1 So it was eventually decided to grant
2 those dates. I think it was unanimously voted on. And
3 at the conclusion of that discussion, a point was made
4 by one of the Commissioners that said, "Okay, tracks.
5 You've now been given a timeline here. You have 23
6 months to come forward to work to get this done."

7 After that meeting, we started having
8 some staff discussions based on questions from those
9 inactive tracks about their simulcast facilities,
10 specifically Saddle Brook Park and here lately with
11 Valle de los Tesoros.

12 We have been provided -- have asked those
13 inactive tracks to come forward at each of the
14 Commissions to provide an update to you. Last year
15 when we did race dates, we had some of the inactive
16 tracks that came and participated in the race date
17 discussions. They realized the impact of them not
18 being built and how that was affecting the horsemen
19 since most of the inactives are all horse tracks.

20 I think Dr. Schmidt had requested at that
21 time also what was the dollar impact to the industry
22 for these tracks not being built. That was calculated
23 and presented to the Commissioners in September of 2010
24 along with the race date update at that time.

25 And it was at that time that Saddle Brook

1 Park came before us and requested to eliminate their
2 2011 dates because they knew at that point they weren't
3 going to be built. And staff recommended to deny
4 that.

5 Commissioner Clowe made the motion to
6 deny it. It was seconded, unanimously supported at
7 that meeting with no discussion.

8 The clock has been ticking on these
9 tracks, for lack of better terms. It will be one year
10 in September that we issued those dates and we have not
11 had much movement.

12 CHAIRMAN PABLOS: Sammy, how many total
13 licenses are out there right now?

14 MR. JACKSON: We have, I believe, 13
15 licenses, Mr. Chairman. And I believe --

16 CHAIRMAN PABLOS: Of those, how many are
17 actually running live racing?

18 MR. JACKSON: Five.

19 CHAIRMAN PABLOS: Five. So we have eight
20 tracks that are not running live racing.

21 MR. JACKSON: Correct.

22 CHAIRMAN PABLOS: Or eight licenses,
23 rather.

24 Okay. And so we've had Saddle Brook come
25 to us with a similar request like we have today.

1 MR. JACKSON: Correct.

2 CHAIRMAN PABLOS: And the decision was to
3 deny.

4 MR. JACKSON: Correct.

5 CHAIRMAN PABLOS: Okay. Let me call
6 up -- before we take any questions, Mr. Brown, will you
7 please come up?

8 Good morning.

9 MR. BROWN: Good morning, Commissioners.

10 CHAIRMAN PABLOS: I just wanted to hear
11 you out on your request and your reasoning for your
12 request, please.

13 MR. BROWN: Sure.

14 Well, first of all, staff has made it
15 very clear to me that they would not support our
16 request. However, I did not want our race dates to
17 kind of come and go, hide in the corner and not say
18 anything, and just hope that it all goes away. I
19 wanted to make it clear and give everybody advance
20 notice that even though it's fairly obvious we don't
21 have a facility built that we would not be capable of
22 running the dates.

23 We certainly understand the staff and the
24 Commission's position, particularly with regard to the
25 Saddle Brook dates, and we expected the same position

1 to be in place for this request. But at the same time
2 we did not want to let our dates just come and go and
3 not say anything and bring it up.

4 CHAIRMAN PABLOS: Okay. Fair enough.

5 Commissioners, are there any questions of
6 Mr. Brown? Any technical or clarifying questions on
7 Sammy's input?

8 Thank you, Mr. Brown.

9 MR. BROWN: Thank you.

10 CHAIRMAN PABLOS: Sammy, could you speak
11 a little bit about the actual race dates and when
12 they'll be coming up? I understand they're coming up
13 rather soon. And so we're going to be in a situation
14 where all of the race dates that have been awarded to
15 some of these tracks are going to -- are going to begin
16 to lapse.

17 MR. JACKSON: Yes, sir. Specifically
18 Longhorn Downs or Austin Jockey Club, their dates were
19 to run in beginning in July. The next tracks that will
20 come on line would be Laredo Race Park and Laredo
21 Downs, who are scheduled all to run in August, as well
22 as Saddle Brook Park, Valle de los Tesoros, and that's
23 it. Manor Downs did not request dates; and although
24 they're inactive, they have ran this past year.

25 We also have a greyhound track or two

1 that have dates granted, specifically Corpus Christi
2 that we call Gulf Coast Racing now, who have dates
3 granted who will probably not be able to run those
4 dates.

5 CHAIRMAN PABLOS: Okay. All right.
6 Well, we'll hear more about this during the update
7 segment of our meeting. But this is certainly a
8 discussion we need to have during our next meeting. We
9 need to talk about what to do and what the
10 repercussions ought to be. So I thank you for your
11 good work.

12 Is there anyone signed up to speak other
13 than Mr. Brown?

14 Okay. So, Commissioners, we have a staff
15 recommendation to deny. At this time I'd like to
16 entertain a motion.

17 Do I have a motion?

18 COMMISSIONER EDERER: I make the motion
19 to deny.

20 CHAIRMAN PABLOS: A motion by Ederer to
21 deny.

22 Is there a second?

23 COMMISSIONER WEINBERG: Second.

24 CHAIRMAN PABLOS: Seconded by Weinberg.

25 Is there any discussion on this item,

1 Commissioners?

2 Okay. At this time I'd like to bring it
3 up for a vote. All those in favor please signify by
4 saying aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN PABLOS: Any opposed?

7 Okay. That motion carries. Thank you.

8 Our next item is Item B, discussion and
9 consideration of conditions and standards for approval
10 of a temporary location under Texas Racing Act Section
11 6.15.

12 I'll give a brief background on this. As
13 you know and as you've heard, we've had a -- it's been
14 a very difficult time for license holders, especially
15 as it relates to starting up live racing, building
16 tracks; and so as we've moved forward, we have asked
17 the industry to get creative and figure out ways to
18 activate their licenses.

19 And Greg LaMantia stepped up and he came
20 up with a proposed solution. He asked his lawyers to
21 do research, perform research, and to figure out a way
22 where he can begin to perform live simulcast
23 operations, which would in turn help to raise money for
24 the horsemen, and has basically submitted an
25 application to do such.

1 And I've asked Mark and Chuck to look
2 into it. Mark has done extensive research on it. And
3 I'd like for us to have an open dialogue as to what to
4 do from a policy perspective given that, you know, we
5 have some history as it relates to previous discussions
6 and decisions that have been made about this.

7 I was very eager to see Mr. LaMantia move
8 forward with this simply because it was a creative idea
9 and I needed to make sure that we continue in our
10 progress to activate these licenses.

11 And so at this time I'd like to ask Mark
12 to give us some background and then we'll open it up
13 for discussion.

14 Mark?

15 MR. FENNER: Commissioners, as you may
16 recall from the last Commission meeting, we did receive
17 an application from Valle de los Tesoros to open a
18 temporary location under 6.15 for the purpose of doing
19 preopening simulcasting.

20 We started our review of that application
21 and also a review of the history of this agency in the
22 past policy work. And we found that there had been
23 some prior discussions, particularly 17 years ago.
24 They didn't address everything that is concerned -- or
25 of concern to us in reviewing this particular

1 application.

2 And so we also received inquiries from
3 other two racetracks about their possibilities of
4 opening a temporary location. And at that point it
5 became clear to us that it wasn't really fair to the
6 industry as a whole to start doing this policy in the
7 context of a single application when as
8 racetrack-wide -- across all the racetracks, could have
9 implications for them.

10 So what I've done in this paper that I've
11 written for you and that we've provided is provided
12 kind of a legal background and then the historical
13 context.

14 Now, the legal background is that there
15 is a specific provision in the Racing Act under 6.15
16 for racetracks to conduct racing at a temporary
17 location prior to the construction of their own
18 racetrack. At the time of this -- the license -- or
19 the act was passed and became law, this section was in
20 there just like it is now, but there was no simulcast
21 wagering authorized, and so at the time it was clear
22 that this was only about live racing at a temporary
23 location. But subsequently the Legislature did
24 authorize simulcast wagering and they amended the
25 definitions of races to include a live and auditory

1 signal of a transmitted race.

2 So when you put that together with this
3 section, it becomes clear that the statute, if the
4 Commission approves it, authorizes simulcasting to also
5 take place at this temporary location.

6 There was also some question about
7 opening for simulcasting before live racing was
8 conducted and this came in the context of when they
9 were doing preopening simulcasting at Lone Star Park.
10 Lone Star Park began preopening simulcasting, but it
11 was there on the site, not at a temporary location.

12 And in connection with that, the Attorney
13 General was requested to issue an opinion letter. And
14 he said some interesting things. He said that "Under
15 the statute, the fact that the racetrack facilities are
16 under construction, incomplete, or otherwise incapable
17 of accommodating a live race event at the time the
18 racetrack begins accepting wagers on simulcast races is
19 inconsequential. Similarly, nothing in the act
20 requires a licensed racetrack to conduct a live race
21 event at the facility before it may offer simulcast
22 racing. To the contrary, the only statutory
23 prerequisite is that the commission has granted live
24 race dates to the licensed racetrack."

25 There are other ways that racing can take

1 place off the major site or the site designated in the
2 license. That's in the case of a catastrophe. If
3 there was a fire, floods, or other catastrophe, then
4 you can conduct racing at a different racetrack
5 licensed in the state. And then there's provisions for
6 the leasing of structures around the racetrack proper
7 and making those part of the enclosure.

8 Now, there's some interesting history
9 about this. In 1994, when Retama Park was being built,
10 the Commission actually voted and made as part of the
11 enclosure Blue Bonnet Palace, as part of the enclosure
12 of Retama Park. Now, that is three miles away from the
13 racetrack.

14 There was quite a bit of discussion on
15 the record, though, as to whether or not simulcasting
16 would be taking place; and Retama Park said, "No, that
17 the purpose of this is purely for administrative
18 offices and we want to do some training of people
19 there."

20 They did not offer or volunteer to
21 conduct simulcasting at the facility. And the
22 Commission was pretty clear that they didn't want them
23 to do it unless they came back and got permission to do
24 so.

25 Later on, Retama Park did request

1 permission to conduct simulcast racing there on its
2 racetrack site at the pavilion, but it ultimately did
3 not conduct that simulcasting. Instead they decided to
4 focus on construction of the facility itself and then
5 they opened for live racing with no preopening
6 simulcasting.

7 Part of that discussion, though, when
8 they made the Blue Bonnet Palace part of the enclosure,
9 is that the Racing Commission adopted this resolution
10 that's on page IV-5 of your materials. And the parts
11 that are interesting is the numbered part near the
12 bottom of that page where it goes "Now therefore be it
13 resolved" and it -- it sets forth the factors that the
14 Commission wants to consider when determining whether
15 to approve an off-site location.

16 One of -- the first one is that they want
17 to -- if it's not contiguous to the main site, the
18 Commission wants to consider the distance from the main
19 track site.

20 They also wanted to consider the
21 unconditional committed and declared use for the
22 additional property. As in the Retama case, Retama
23 declared it was for the administrative offices and for
24 training. They did not commit to doing simulcasting
25 there.

1 The Commission was concerned about the
2 length of time that the additional property will be
3 used. And they were also concerned about the extent to
4 which live races are capable of being conducted at the
5 racetrack proper.

6 The Commission was concerned about the
7 degree to which the planned use of the proposed
8 additional property directly relates to the ongoing
9 operations of the racetrack rather than other business
10 purposes. I think that that means that they didn't
11 want this to be a sideline at this facility.

12 They were concerned about the number and
13 class of other pari-mutuel racetracks located within
14 100 miles. And that's an interesting concern because
15 Valley Race Park is within a hundred miles of the
16 proposed simulcasting facility.

17 No. 7 was the extent to which the
18 racetrack is in full compliance with Commission rules.
19 And the Commission was interested in the increase to
20 regulatory cost to the agency.

21 Then there were two further resolutions
22 that said that they -- the Commission would not approve
23 a proposed site expansion if the additional property
24 was more than five miles from the racetrack site. It's
25 interesting in this context because the proposed site

1 for Valle de los Tesoros is more than five miles from
2 the racetrack.

3 Then finally, a further resolution, if I
4 may abbreviate or paraphrase, the Commission will not
5 authorize pari-mutuel wagering on the noncontiguous
6 property if the association is capable of conducting
7 wagering on the main racetrack site.

8 Well, when we looked at these and we
9 looked at the issues that are facing us, we found that
10 there were a number of issues in which we could use
11 some guidance and, if not guidance on a final answer,
12 guidance on how to go about -- how do you recommend
13 that we go about finding the appropriate answer.

14 The first is whether -- as a condition of
15 being granted this temporary location, should the
16 racetrack commit to building its permanent facility; is
17 that a prerequisite for the Commissioners or is there a
18 flexibility for them to do what they can now and come
19 back at a later point.

20 The second question is should there be a
21 limit to the length of time that a racetrack can
22 conduct preopening simulcasting. There's a couple of
23 different expectations we can look to. For example,
24 the simulcasting -- or the temporary location provision
25 has a two-year limit. There's a cap. You can't get

1 any more than two years. You could say that two years
2 is the maximum.

3 On the other hand, the rules provide that
4 after one year of simulcasting, if purse money is not
5 used, that the Horsemen's Partnership can take that
6 money and move it to a different racetrack and have it
7 used at that location.

8 The third question we identified is
9 whether the Commission should require an applicant to
10 pay any specific fees or post any bonds. It seems most
11 analogous to us to Rule 309.12 which has a proposal
12 for -- or a provision that a Class 2 racetrack would
13 pay \$50,000 for consideration of a change in location.
14 This isn't really a change in location, but there are
15 some elements of it that are similar.

16 The act talks in terms of allowing a
17 temporary location before construction is completed,
18 but Manor Downs is in a situation where they have a
19 racetrack and they have a racetrack already because
20 they were actually a pre-pari-mutuel racetrack.
21 They've been there for longer than the Texas Racing
22 Act. And so they had a facility.

23 My understanding is as part of their
24 proposal and gaining of additional investors that they
25 are in a position where they may have to, as part of

1 the remodeling, make the place inappropriate or
2 unsuitable for pari-mutuel simulcasting and would like
3 the option of having some other place while they do the
4 remodel.

5 Whether there's specific conditions that,
6 if not met, would result in the suspension of
7 simulcasting privileges. Let's say, for example, that
8 this facility had been approved and they had been
9 granted live race dates, which is a prerequisite for
10 conducting simulcasting, and yet they failed to meet
11 those live race dates. Would the Commission be in a
12 position of saying simulcasting must stop?

13 Whether an agreed order should be
14 required as a condition of granting a temporary
15 location and what the conditions of that agreed order
16 would be. We've had situations in the past with both,
17 I believe, Bandera Downs and Trinity Meadows where
18 those racetracks -- for different reasons, they had
19 some problems, developed a plan for -- a remediation
20 plan that called for them to provide capitalization,
21 additional management, and, if they failed to meet
22 those requirements by a certain date, they voluntarily
23 surrendered their license for revocation. And in fact,
24 they failed to meet those conditions and they did
25 surrender their license.

1 So these are all the types of issues that
2 are out there and that we really could use a little
3 help on. Where do we go from here? That's a pretty
4 high-level discussion, but it's -- it would be helpful
5 to hear if you had any feedback on any of that.

6 CHAIRMAN PABLOS: Well, let's hear from
7 Mr. Moltz first and then we'll take some questions,
8 Commissioners. I'd like for Mr. Moltz to provide us
9 some background. And I want to emphasize this is --
10 this is something that was borne out of our request to
11 the industry for ideas on how to move forward. It's
12 not an expansion of gaming. These licenses are already
13 out there. There is a concern, you know, by other
14 license holders as it relates to this particular
15 issue. You'll hear from them today.

16 But if you could just give us, Mr. Moltz,
17 your sense of, you know, what you found and what you
18 think.

19 MR. MOLTZ: Good morning, Commissioners.

20 CHAIRMAN PABLOS: Good morning.

21 MR. MOLTZ: For the record, I'm Bill
22 Moltz.

23 And we don't really have a whole lot to
24 say about the bottom-line policy. We had sort of
25 assumed -- Valle de los Tesoros had presumed that this

1 was something the Commissioners wanted the track to
2 do. That was -- it's been kind of on the table for
3 probably almost a year now. I don't remember exactly
4 when it came up, but it's been a long time. We thought
5 it was going to be on the agenda for a decision today.

6 At the last meeting I pointed out that
7 there was a little glitch with the lease. Well, that's
8 been taken care of. There's a formal lease. Rent
9 payments are being made.

10 We do recognize that there are policy
11 decisions. We're a bit perplexed why it couldn't be
12 done on a case-by-case situation. But nevertheless,
13 the staff wanted to put this on the agenda this way
14 rather than for a decision. So that's fine.

15 One thing I will point out, though, is
16 that many of the things the staff has brought up, or
17 some of them -- there really aren't that many -- but
18 seem to contemplate long discussions and groups
19 meetings and perhaps even rulemaking. Now, I will say
20 that if the Commission wants to do that, that's
21 certainly their prerogative. But our lease will
22 probably be terminated while we sit for months and
23 months waiting for some sort of -- if we're looking for
24 rulemaking and policy decisions. And we need a
25 decision relatively quickly.

1 We have a lease out there that requires
2 certain things, requires expenditures, and, if nothing
3 else, requires rent payments. And if that happens,
4 then perhaps -- if we can't get that piece of property
5 back in the future, then our application becomes
6 obsolete.

7 And I guess what I'm saying is that we
8 really would appreciate a relatively quick decision on
9 these things and not a very long drawn-out procedure or
10 it's going to kind of kill the whole deal. If that's
11 what you want to do, that's fine. Our position sort of
12 is it's up to you all whether you want this to go
13 forward.

14 I don't believe that 17-year-old policy
15 really binds this Commission at all. I mean, it's very
16 interesting history, but it's not the situation today.
17 And it really is up to the Commission to determine
18 whether or not you want this to go forward.

19 If you do, my client is ready to move
20 forward with it and, in fact, has moved forward with
21 it. We were hoping to be open by August and that's not
22 going to happen because of what we're doing here
23 today. If you don't want to go forward with it, that's
24 fine with us, too. We'll just kill the whole deal.

25 So I guess it's just sort of up to you

1 all to give some guidance to the staff so we can move
2 forward with this, with the one caveat that please
3 don't make it take too long because that's going to de
4 facto kill it.

5 CHAIRMAN PABLOS: First all, thank you
6 for your input. Let me be very clear. This item is
7 ripe for discussion today. You did have an issue with
8 your lease. It's been taken care of. And so I asked
9 Chuck and Mark to perform further research. We have to
10 be very deliberate in the process. We will bring it
11 for consideration in August.

12 MR. MOLTZ: Okay. Great.

13 CHAIRMAN PABLOS: Out of respect and
14 courtesy to the Commissioners, I think it was very
15 important for them to hear the results of Mark's
16 research. It is a 17-year-old policy decision.
17 However, it is right on point and, you know, I felt
18 that it was important for us to have this discussion
19 today.

20 I understand that your client is eager to
21 find out either way. I know you've spent a lot of
22 money in working through this as a result of our urging
23 and we did urge you to find solutions. But, you know,
24 as we move forward with a major policy decision like
25 this, we have to consider everything. So that's what

1 we're doing today.

2 And so I thank you for being here today.

3 You've done your research. Our staff has done its
4 research. And so now we simply need to consider and
5 ensure that we've considered all of the outlying facts
6 and potential policy implications. And so that's what
7 we're doing here today.

8 MR. MOLTZ: Thank you, Mr. Chairman.

9 CHAIRMAN PABLOS: Thank you very much.

10 MR. MOLTZ: We just didn't want the
11 practicalities to make the decision for the
12 Commission.

13 CHAIRMAN PABLOS: No. We understand. We
14 understand.

15 MR. MOLTZ: Thank you.

16 CHAIRMAN PABLOS: Commissioners, are
17 there any technical or clarifying questions of Mark
18 before I take the public comment?

19 VICE-CHAIRMAN SCHMIDT: I just had one or
20 two.

21 CHAIRMAN PABLOS: Commissioner Schmidt?

22 VICE-CHAIRMAN SCHMIDT: Maybe I missed
23 that, Mark.

24 MR. FENNER: Yes, sir.

25 VICE-CHAIRMAN SCHMIDT: Could you just go

1 through -- if the simulcast temporary location were
2 approved, could you walk me through the money trail
3 exactly? In other words, if there were profits from
4 the simulcast location, would it be held in escrow for
5 a year and then go to the horsemen's fund or does it go
6 immediately? Can you just explain that a little more
7 clearly?

8 MR. FENNER: Could I defer that question
9 to either Mr. Jackson or to Ms. Harris-Curtsinger?
10 Because I think they know that and understand that
11 better than I do.

12 MR. JACKSON: When you say revenue,
13 Commissioner Schmidt, are you talking about the purse
14 money and the ATB funds? Or are you talking about --

15 VICE-CHAIRMAN SCHMIDT: We're going to
16 have a -- we're approving a temporary location for
17 simulcasting, correct?

18 MR. JACKSON: Correct.

19 VICE-CHAIRMAN SCHMIDT: It's my
20 understanding that the purpose of this is, in theory,
21 to generate revenue for the purse fund.

22 MR. JACKSON: Okay.

23 VICE-CHAIRMAN SCHMIDT: I'm just -- I
24 heard a -- but then I've also heard that perhaps it has
25 to be held in escrow for a year. And I'm interested,

1 does the Commission audit these funds?

2 MR. JACKSON: Yes, we do.

3 VICE-CHAIRMAN SCHMIDT: And do we have to
4 hold it for a year and -- just walk me through where
5 the money goes.

6 MR. JACKSON: Sure. I just need to
7 clarify we're talking about purse money.

8 VICE-CHAIRMAN SCHMIDT: Yes, sir.

9 MR. JACKSON: There's a difference
10 between purse money and ATB money. And I'll talk about
11 both.

12 VICE-CHAIRMAN SCHMIDT: Okay.

13 MR. JACKSON: Since it would be simulcast
14 purse money, there would have to be a breed split
15 agreement between the industry to allocate that purse
16 money earned at that facility between the various
17 breeds of horses. That's something we typically do.
18 We will be doing something upcoming here recently on an
19 agenda about that, so that would not be anything out of
20 the -- out of line or new.

21 If the purse money doesn't have an
22 agreement in place for it to be utilized at other
23 locations -- and usually it's the Horsemen's
24 Partnership that would have an agreement between itself
25 and the racetrack who's earning that purse money --

1 then it would stay in that racetrack's purse accounts.

2 If it's unused for one year, if it sits
3 there and none of that money is used for actual live
4 races at their facility, then at the end of 365 days
5 the Horsemen's Partnership has the ability to move that
6 money to any other racetrack in the state who are
7 running live races for use as purse money at that
8 facility and it would go specifically to the breed for
9 which that money was designated for.

10 Does that help clarify that a little
11 bit?

12 VICE-CHAIRMAN SCHMIDT: A little bit.

13 MR. JACKSON: Okay.

14 VICE-CHAIRMAN SCHMIDT: Just a follow-up
15 question. But if we're talking about somebody who
16 doesn't have a racetrack facility --

17 MR. JACKSON: Correct.

18 VICE-CHAIRMAN SCHMIDT: -- are we -- and
19 our principal problem --

20 MR. JACKSON: Correct.

21 VICE-CHAIRMAN SCHMIDT: -- in Texas
22 racing today is lack of purse money --

23 MR. JACKSON: Correct.

24 VICE-CHAIRMAN SCHMIDT: -- can the
25 one-year waiting list -- waiting rule be modified?

1 MR. JACKSON: That issue could be
2 resolved between the Horsemen's Partnership and that
3 association with a simple agreement.

4 VICE-CHAIRMAN SCHMIDT: Okay. Without
5 action by the Commission.

6 MR. JACKSON: That's correct.

7 CHAIRMAN PABLOS: Thank you, Commissioner
8 Schmidt.

9 And again, this is all as a result of the
10 inactive licenses. What we're trying to do is trying
11 to push them forward. And so it's all kind of coming
12 to a head with this particular issue.

13 Commissioner Ederer?

14 COMMISSIONER EDERER: I believe there was
15 a second part to this answer?

16 MR. JACKSON: Yes, sir. Specifically to
17 the accredited Texas-bred funds, those are monies that
18 are collected by the Racing Commission and then passed
19 to the breed registries. There again, a breed split
20 agreement would have to be had between the different
21 respective breed registries for how that money was to
22 be allocated. We would then allocate that money to
23 those breed registries every month. We collect that
24 money at the end of each business day.

25 So they could then use that money as they

1 deemed fit for breeder awards at other tracks or, in
2 certain cases, in some of the money that they have,
3 they have the ability actually to supplement a purse
4 for a restricted Texas-bred race at another racetrack
5 with those funds.

6 COMMISSIONER EDERER: Would the State
7 derive any revenue from this?

8 MR. JACKSON: Yes, Commissioner Ederer.
9 They would derive a pari-mutuel tax at a rate of one
10 percent for simulcasts on horse signals and one and a
11 quarter percent on the simulcast of greyhound signals.

12 COMMISSIONER EDERER: Would the
13 Commission receive any revenue?

14 MR. JACKSON: Yes, Commissioner Ederer.
15 The current fee schedule that we have -- and of course,
16 we'll be reviewing that with a subcommittee. The
17 current simulcast fee per day is \$410 for a Class 2
18 track per day of simulcasting. In addition to that,
19 they would pay -- instead of an inactive annual fee at
20 this point, we would -- they would pay an active annual
21 fee as well.

22 COMMISSIONER EDERER: So then if I
23 understand what you're saying, if we were to approve
24 this temporary -- excuse me -- facility, the State
25 would benefit. The horsemen would benefit. The Racing

1 Commission would benefit. Is that correct?

2 MR. JACKSON: That is absolutely
3 correct. There would be an economic benefit to that
4 event occurring.

5 COMMISSIONER EDERER: All right. Now,
6 the proposal, as I understand it, is just for one of
7 these facilities? Is that correct?

8 CHAIRMAN PABLOS: Well, for now, the only
9 person that's stepped up is Mr. LaMantia for Valle de
10 los Tesoros. That is correct.

11 COMMISSIONER EDERER: But it's possible
12 that all of the outstanding licenses --

13 CHAIRMAN PABLOS: We have asked the
14 industry to consider any options that are within our
15 rules and our act in order to activate. What we're
16 trying to do as a Commission, we're trying to put these
17 licenses to work. Yes, sir.

18 COMMISSIONER EDERER: Generate a little
19 revenue for the State and for everyone.

20 CHAIRMAN PABLOS: Absolutely.
21 Absolutely. But, you know, that being said, we need to
22 also be very cognizant of the repercussions. And
23 that's what we're doing today. We're talking this
24 through. We're making sure that we've considered
25 everything.

1 You know, Mark did a great job of going
2 back and piecing these meetings together and coming up
3 with the information he did. You know, this has been
4 talked about in the past with respect to temporary
5 locations. This Commission has considered it. But now
6 we're in a different environment and we're in a
7 position to make policy as it relates to this. And so
8 I think having this discussion is very healthy and I
9 certainly thank, you know, the Valle de los Tesoros
10 group for taking that initiative.

11 At this time I'd like to call some people
12 up that also might have some input.

13 Andrea Young with Sam Houston -- actually
14 with Valley Race Park, if you could please come up and
15 give us your insight.

16 MS. YOUNG: Good afternoon -- or good
17 morning, Commissioners. I'm here -- can you all hear
18 me okay?

19 CHAIRMAN PABLOS: Yes.

20 MS. YOUNG: I'm here in my role as the
21 president of Valley Race Park.

22 We understand this is a fairly complex
23 issue before the Commission. We don't have any
24 specific opposition to this type of plan, but we do
25 have -- we are opposed to this specific application.

1 The reason we're opposed to this specific
2 application is that it will directly impact our trade
3 area. So the proposed location is about 40 miles from
4 Valley Race Park, which means at about Mile 18 our
5 trade areas start to intersect.

6 This is something we've looked -- that
7 the Commission, I think, looked at when the license was
8 originally granted in 2007. Our position is that this
9 is a different set of circumstances now being
10 considered. We believe our business could drop by as
11 much as 40 or 50 percent.

12 I think this Commission is also very
13 aware that, you know, it's been tough going for the
14 entire industry and certainly for Valley Race Park. We
15 feel like we've been very creative also in how we've
16 been operating Valley Race Park. We are in the process
17 of investing a quarter of a million dollars to get the
18 facility ready for a live race meet later this fall.

19 And, you know, to allow someone into our
20 trade area could ultimately result in us having to
21 consider things like closing. That's not a comment we
22 make lightly or that, you know, we throw around. But
23 it's something that, you know, had we not been
24 operating the way we have the last couple of years
25 probably would have already happened.

1 So we're kind of operating really -- it's
2 hard for us as an operator. We've got an 80-acre site
3 that we have to maintain. We have live racing dates
4 that we're going to make good on. And for somebody to
5 come into our trade area and operate in a nice new
6 strip mall, you know, is troublesome for us.

7 I'm happy to answer any other questions
8 you might have.

9 CHAIRMAN PABLOS: Commissioners, are
10 there any questions?

11 So let me ask this. If they were to
12 proceed with building a track within the trade area,
13 you would be okay with it.

14 MS. YOUNG: Well, I think that right has
15 already been granted to them, so that fight already
16 happened. We're not thrilled about it, but I think we
17 have to accept that.

18 CHAIRMAN PABLOS: So your issue is that
19 by granting a temporary site, you will be put in a
20 position where your competition would -- or competition
21 model would change, correct?

22 MS. YOUNG: Absolutely. We'd be at, I
23 think, a pretty serious competitive disadvantage.

24 CHAIRMAN PABLOS: Well, that's good
25 info.

1 Commissioners, any questions?

2 MR. POLUNSKY: I have a question.

3 CHAIRMAN PABLOS: Mr. Chairman?

4 MR. POLUNSKY: What percentage of your
5 profit is live racing and what percentage would be
6 video?

7 MS. YOUNG: Well, that's a good
8 question. We don't have any profit. So there is no
9 profit. But 99 percent of our business is
10 simulcasting. The race meet that we have coming up is
11 a five-day meet, so it's a very limited meet.

12 MR. POLUNSKY: Right. So your live
13 racing is almost -- I mean, it's a great drain.

14 MS. YOUNG: Yes.

15 MR. POLUNSKY: And it is being
16 subsidized, for whatever it can be subsidized for, with
17 your simulcast betting that's taking place at your park
18 now. Would that be correct?

19 MS. YOUNG: That's correct.

20 MR. POLUNSKY: So consequently, if your
21 simulcast betting is reduced because there's someone
22 else in your trade area doing the exact same thing,
23 then I guess what you've already said essentially is
24 that there is a strong possibility that whatever live
25 racing you have and whatever additional live racing you

1 might want to generate in the future probably will not
2 take place.

3 MS. YOUNG: That's correct. And to go a
4 step further, our simulcast revenue that we generate
5 right now generates purse money for the industry. And
6 that would go away as well.

7 MR. POLUNSKY: Thank you.

8 MS. YOUNG: Uh-huh.

9 CHAIRMAN PABLOS: Commissioners, any
10 other questions of Ms. Young?

11 Thank you very much. Appreciate it.

12 MS. YOUNG: Thank you.

13 CHAIRMAN PABLOS: And again, the purpose
14 of this discussion is to avoid any unintended
15 consequences and so I thank you for that.

16 Next we have David Hooper signed up to
17 speak.

18 Mr. Hooper, please?

19 MR. HOOPER: Mr. Chairman, Commissioners,
20 my name is David Hooper, executive director of the
21 Texas Thoroughbred Association. Thank you for the
22 opportunity to appear before you to express some
23 thoughts on behalf of the 1400 members of the TTA.

24 I would echo Mr. Moltz's comments. Time
25 is of the essence. We are at a critical juncture for

1 the Texas racing and breeding industry. The breed
2 organizations, the horsemen's organization, the horse
3 and greyhound racetracks need your help. We are all in
4 survival mode while the Texas agri-industry and, more
5 specifically, the equine industry is at a competitive
6 disadvantage to our surrounding states.

7 The lack of legislative action in the
8 recently completed regular session of the Texas
9 Legislature and the lack of action during the present
10 special session to find new sources of revenue for the
11 State while putting the Texas racing industry on a more
12 competitive playing field with our neighbor states will
13 leave us further in arrears of Louisiana, Arkansas,
14 Oklahoma, and New Mexico by 2013.

15 The lack of revenue flowing to purses and
16 breed programs in Texas from legalized gaming, as it
17 does at tracks in each of our neighbor states, coupled
18 with the prohibitions in Texas against advance deposit
19 wagering or phone betting as well as Internet wagering
20 and wagering on archived or historic races, has pushed
21 Texas racing to the brink of a precipice and we're
22 about to fall over the cliff.

23 Texas is a -- is noncompetitive with our
24 neighbor states which all utilize the technological
25 advances that are available today in the industry to

1 grow their racing and breed programs while Texas
2 cannot.

3 We need your help. We need you to make a
4 meaningful policy decision today that will sooner,
5 rather than later, provide additional revenue to purses
6 and breed programs from new locations in Texas and
7 provide cash flow from simulcast operations at
8 temporary locations for license holders of unbuilt
9 tracks while they are constructing their permanent
10 locations.

11 Preopening simulcasting works. Lone Star
12 Park is living proof. Lone Star Park received approval
13 from this body to open for simulcasting on the eve of
14 the 1996 Kentucky Derby. Lone Star's first live racing
15 began 11 and a half months later on April 17th, 1997.
16 And the revenue generated for purses from preopening
17 simulcasting allowed Lone Star to maintain its
18 overnight purse structure without any purse cuts.

19 By contrast, Sam Houston Race Park opened
20 in April 1994 without the advantage of preopening
21 simulcasting and incurred significant purse cuts during
22 its first year of operation before declaring
23 bankruptcy.

24 Retama Park opened in April 1995 also
25 without the benefit of preopening simulcasting and

1 purse cuts were part of the first year of operations,
2 along with a declaration of bankruptcy.

3 Mark and I had some discussions on this
4 subject. I was pleased to read that 17-year-old
5 resolution. There have been huge changes in the
6 industry in that 17 years and I would strongly suggest
7 you may want to revisit that and some of the -- some of
8 the whereases and wherefores.

9 Simulcasting was in its infancy when I
10 first came here in 1995. In fact, working with the
11 horsemen's organization, our contracts only allowed the
12 racetracks to bring in six signals. In truth, we're
13 now the Midwest simulcast capital of the world, we
14 bring in so many signals at all of our racetracks.

15 In addition to the interests of Valle de
16 los Tesoros, in discussions with Bryan Brown about
17 plans for Austin Jockey Club/Longhorn Downs in
18 Creedmoor, they are interested in opening a temporary
19 location and could as early as the end of this year or
20 the beginning of next year.

21 In discussions with Ricky Knox, knowing
22 that Global Gaming is interested in executing a buy
23 agreement for Saddle Brook Park with Drew Alexander,
24 they are interested in a temporary location in Amarillo
25 away from the planned track site. So there's other

1 interests out there. And you've mentioned Manor Downs
2 as well this morning.

3 Because we felt like this was an
4 important decision, our new president, Dr. David
5 Stephens, called an early morning board meeting
6 yesterday morning. The Texas Thoroughbred Association
7 board of directors met via conference call and
8 unanimously passed a motion in support of the Texas
9 Racing Commission making a policy decision, within
10 provisions in the Texas Racing Act and rules of the
11 Texas Racing Commission, to permit preopening
12 simulcasting at temporary locations by holders of
13 licenses for presently unbuilt tracks. The new revenue
14 can be a lifesaver to our industry that is currently on
15 life support during these challenging times.

16 I'll be pleased to try and answer any
17 questions.

18 CHAIRMAN PABLOS: Thank you, Mr. Hooper.

19 Any questions, Commissioners?

20 Thank you very much.

21 Commissioner Schmidt?

22 VICE-CHAIRMAN SCHMIDT: Mr. Hooper, does
23 the Texas Thoroughbred Association have a position when
24 a proposed simulcast facility is in direct competition
25 with a facility that actually has been built and is

1 running races?

2 MR. HOOPER: Well, we do not have a
3 position on that as of this date. We are trying to
4 look out for our segment of the industry, which is the
5 horse industry.

6 I can tell you this: That because of the
7 closure of Manor Downs, which generated significant
8 revenue, in part from simulcasting, for the Quarter
9 Horse industry, I have already had communication from
10 Rob Werstler, my counterpart at TQHA. They want to
11 enter into discussions with us about breed splits, not
12 only purse splits but also ATB splits, because they've
13 lost the revenue -- and they had a high percentage of
14 it -- that was generated at Manor Downs from
15 simulcasting.

16 Obviously it would ease our breed split
17 negotiations if there were additional sites that were
18 open through temporary locations for simulcasting at
19 the presently -- present license holders of unbuilt
20 tracks, because we could -- particularly in South
21 Texas, we could agree, I can see -- it's basically
22 Quarter Horse country -- that a high percentage of the
23 revenue we would agree should go to the Quarter Horse
24 side of the business.

25 And what we do with Amarillo, what we do

1 with Austin Jockey Club/Longhorn Downs, you know, we'll
2 discuss that in reasonable -- reasonably over the
3 table.

4 CHAIRMAN PABLOS: Commissioners, any
5 other questions? Chairman Polunsky?

6 MR. POLUNSKY: Well, let me make sure I
7 understand what you're saying, sir. You've heard
8 testimony today from a representative of an operator
9 close to the proposed temporary site that this would
10 essentially be a killer blow to live horse racing down
11 there as I understand what she's stating.

12 MR. HOOPER: Well, they have a greyhound
13 track down there.

14 MR. POLUNSKY: I'm sorry.

15 MR. HOOPER: Valley Race Park.

16 MR. POLUNSKY: All right. But
17 nevertheless, it would be -- it would be likely
18 something that would be very detrimental to their
19 operation down there.

20 MR. HOOPER: Yes, I heard. And I heard
21 the opposition at the time that the license application
22 was being considered by this body for Valle de los
23 Tesoros to be located in McAllen.

24 MR. POLUNSKY: And you're not concerned
25 that a greyhound track would be closed possibly because

1 of the granting of this temporary license?

2 MR. HOOPER: Yes, I'm concerned about it,
3 Commissioner, but I'm also concerned about the horse
4 industry relative to finding additional revenue for
5 purses and breed programs, because we are in survival
6 mode.

7 MR. POLUNSKY: Thank you.

8 CHAIRMAN PABLOS: Commissioner Weinberg?

9 COMMISSIONER WEINBERG: Yes, Mr. Hooper.
10 Do you have an opinion or position on the length of
11 time that should be allowed for a temporary simulcast
12 location before the building is built?

13 MR. HOOPER: Well, as I read Section 6.15
14 of the act, it says no longer than two years. And I
15 believe your general counsel said today, as he did in a
16 conversation with me last week, that, you know, there
17 are no -- it doesn't allow for extensions by even
18 someone coming in new at the same site. So I think
19 you've already got a building time frame of no more
20 than two years and that's it.

21 COMMISSIONER WEINBERG: Okay. Thank
22 you.

23 CHAIRMAN PABLOS: Commissioner Haywood?

24 COMMISSIONER HAYWOOD: You mentioned -- I
25 appreciate the kind of walk through the history of Lone

1 Star Park and some of the other instances where it was
2 or was not incurred with the preracing simulcasts.

3 When that happened at Lone Star Park, had
4 they already started construction of their main
5 facility?

6 MR. HOOPER: Yes. Yes. And they had
7 dates, by the Attorney General's opinion, that as long
8 as dates were allocated -- they asked for dates in
9 December of 1994, but their construction was well into
10 the year of -- I'm sorry. 1996. But their
11 construction, as it moved towards the end of the year,
12 the calendar did, was not sufficiently far enough along
13 for them to hold live racing in December. And they
14 also had dates for a 70-or-so-day meet starting April
15 17th and running into July in 1997 and that proved to
16 be very successful.

17 I distinctly remember having a discussion
18 with the president of Lone Star before they did start
19 their simulcast operations. And I said, "Corey" -- it
20 was Corey Johnsen. "What kind of business do you
21 expect to do?" And he said, "I hope we do as well as
22 Sam Houston." And Sam Houston was averaging 300,000
23 per day on their simulcast operations at the time.

24 From Day One, Day One, when that Lone
25 Star simulcast pavilion opened, they averaged \$500,000

1 a day. That went on for some period of time. It's not
2 quite that good anymore, but it's a terrific market.

3 CHAIRMAN PABLOS: Any other questions,
4 Commissioners?

5 Okay. At this time -- thank you,
6 Mr. Hooper.

7 MR. HOOPER: Thank you.

8 CHAIRMAN PABLOS: At this time I'd like
9 to recognize Harlyn Goebel with the Texas Greyhound
10 Association, please.

11 MR. GOEBEL: Good morning,
12 Commissioners.

13 CHAIRMAN PABLOS: Good morning.

14 MR. GOEBEL: Now, we're in opposition --
15 I'm Harlyn Goebel, Texas Greyhound Association.

16 We're in opposition of the change of the
17 location, moving it closer to the Rio Grande Valley,
18 because they serve us with live racing. And I think
19 all these temporaries coming about is a good thing
20 because it helps our purse; but if they become
21 devastating to live racing, we have no place to run our
22 dogs.

23 CHAIRMAN PABLOS: Very well.

24 Commissioners, any questions?

25 COMMISSIONER EDERER: So you're in

1 favor --

2 CHAIRMAN PABLOS: Commissioner Ederer?

3 COMMISSIONER EDERER: You're in favor of
4 the temporary facilities except you're not in favor of
5 the one --

6 MR. GOEBEL: I think the location of them
7 is crucial. I think the location -- if they start
8 being harmful to the tracks that are serving live --
9 that are serving live racing now and we don't have any
10 live racing, where are we going to end up?

11 COMMISSIONER EDERER: So your proposal --
12 you would want the Commission to consider the location
13 of where these temporary facilities would be and
14 possibly put some sort of a distance in there.

15 MR. GOEBEL: I'm sure -- I'm sure
16 Amarillo has a different scenario than the Rio Grande
17 Valley. We've had it going on at Corpus, you know.
18 But they're further than a hundred miles from another
19 racetrack.

20 COMMISSIONER EDERER: Would a hundred
21 miles be sufficient?

22 MR. GOEBEL: I don't know. That would be
23 for the racetrack.

24 COMMISSIONER EDERER: We're talking about
25 Valley. Valley is located where exactly?

1 MR. GOEBEL: It's in Harlingen.

2 COMMISSIONER EDERER: In Harlingen. And

3 the Tesoros -- the request --

4 CHAIRMAN PABLOS: Valle de los Tesoros.

5 COMMISSIONER EDERER: Yes. Is where?

6 MR. GOEBEL: McAllen, isn't it?

7 COMMISSIONER EDERER: So approximately 40

8 miles?

9 MR. GOEBEL: Yeah. And it's moved into

10 town where all the people are at, into a mall. It's

11 going to put Valley at a disadvantage. If they close

12 down, I have no live racing.

13 COMMISSIONER EDERER: Could it be that it

14 would stimulate interest in racing and get more people

15 excited about going to participate at the type of

16 facility? Could it possibly help Valley?

17 MR. GOEBEL: I don't know.

18 CHAIRMAN PABLOS: Those are all good

19 questions. Those are all good questions.

20 Is there anything else, Commissioners, of

21 Mr. Goebel?

22 Okay. Thank you.

23 I have Barbara Linke with the Texas

24 Quarter Horse Association and Marsha Rountree with the

25 Texas Horsemen's Partnership filling out a card in

1 favor but not wishing to testify.

2 Okay. Well, you know, Mr. Hooper kept
3 mentioning that he was asking us to make a decision.
4 We're not making a decision today. We're just having a
5 meaningful discussion about this. As you can see, it's
6 very important to everyone. We have conflicting
7 interests, but at the same time we all have to work
8 together to find a solution.

9 We're about to go into progress reports
10 and you'll see that a lot of this is borne out as a
11 result of the inactive licenses being unable to get up
12 and running. And we asked the industry to get
13 creative.

14 Mr. Moltz, your client stepped up to the
15 plate. I appreciate that. I want to be very clear
16 that we were the ones who asked you to get creative.
17 You came to us with this issue. We're considering it.
18 We're trying to make sure that no one is harmed here.
19 But at the same time it's a fine balancing act. We
20 have to get these licenses up and running and we have
21 to do it in short order. So we all need to be
22 flexible. And that's all I ask is that we find some
23 level of commitment from everyone to be flexible and to
24 make compromises where possible.

25 As you can see here, we have conflicting

1 interests and we have to resolve that. But we will
2 bring this item up for consideration in August. We'll
3 have the time between now and then, the interim, for
4 the Commission and the Commissioners to ask questions
5 and be briefed more, if they so desire, and begin to
6 look at this one particular application.

7 As for the other inactive license
8 holders, I encourage you to find solutions as well.
9 Commissioner Ederer had a good point. You know,
10 perhaps you could do it in your own territory and bring
11 us potential solutions. But this Commission is very
12 eager to get these inactive licenses active. We won't
13 tolerate this much longer.

14 Commissioner Ederer?

15 COMMISSIONER EDERER: Mr. Chairman, at
16 the present time there is one request before us. Is
17 that correct?

18 CHAIRMAN PABLOS: There is a request of
19 the agency, yes, sir.

20 COMMISSIONER EDERER: Right. Now, by the
21 next meeting we could have eight more?

22 CHAIRMAN PABLOS: Well, we could, but I
23 don't know that that would give us enough time to vet
24 the actual request. The actual request that's in front
25 of us is ready to go. It's administratively complete.

1 It's been vetted internally. And so that one is
2 ready. I can't say -- and I won't speak for Chuck.
3 But I can't say that they would be ready for
4 consideration should they come up.

5 COMMISSIONER EDERER: So it would be, it
6 seems to me, a good recommendation to the industry that
7 if, in fact, these people that are holding these
8 licenses are interested in going forward, they should
9 get that application in as soon as possible.

10 CHAIRMAN PABLOS: Well, that's certainly
11 a consideration for them because, as you know, we have
12 our new sunset law in place and so we're now in a
13 position where we have more leverage in ensuring that
14 these licenses are active.

15 So, yes, sir, getting creative is going
16 to be certainly a priority for them; and as we step
17 into these progress reports, you know, we'll hear from
18 each one of them as to their intentions to begin live
19 racing. So we'll move on to that item if that's okay
20 by everyone.

21 Does anyone have any further items on
22 this? Commission -- Chairman Polunsky?

23 MR. POLUNSKY: I have a question for
24 Mr. Fenner.

25 MR. FENNER: Yes, sir.

1 MR. POLUNSKY: With respect to your
2 research, did you delve into legislative intent with
3 respect to simulcast racing and what the thoughts were
4 when these bills were passed by the Legislature in the
5 past?

6 MR. FENNER: I did not look for a
7 specific expression of intent that authorizing
8 simulcast wagering applies to temporary locations. And
9 in fact, if you start looking at simulcast --
10 simulcasting, the view 17 years ago was very, very
11 different than it is now.

12 The reason that I understand that Retama
13 Park did not ask to do simulcasting at Blue Bonnet
14 Palace is because the industry itself was very
15 suspicious of simulcasting, were afraid that it was
16 going to hurt the live product. And so it was a very
17 different time.

18 But if you have a specific issue you
19 would like me to research, I'd be happy to do that in
20 advance of the next meeting.

21 MR. POLUNSKY: I would like to have you
22 research the legislative intent with respect to
23 simulcast racing legislation that was passed by the
24 Legislature and if there was any discussion that was
25 not necessarily covered by it with respect to the

1 situation -- or a situation similar to what we're
2 discussing now.

3 MR. FENNER: I will do that, sir.

4 CHAIRMAN PABLOS: Commissioners, any
5 other questions or comments before we move on to our
6 next item? Commissioner O'Connell?

7 MS. O'CONNELL: I have a question for
8 Mark Fenner.

9 Do you think that the Section 6.15 of the
10 act, racing at a temporary location -- it says that
11 after an association has been granted a license to
12 operate a track and before the completion of
13 construction at the location, they can apply for this
14 temporary two-year license.

15 Are you interpreting that to mean that
16 construction must have started and not be completed
17 or --

18 MR. FENNER: No, ma'am, I'm not
19 interpreting that that way at all, and particularly in
20 light of the AG's opinion which said that the status of
21 construction prior to the simulcasting was
22 inconsequential. So I don't read it that way.

23 MS. O'CONNELL: Was that an issue in the
24 AG opinion?

25 MR. FENNER: Yes, ma'am, it was a part of

1 their finding.

2 MR. POLUNSKY: And we have copies of the
3 AG's opinion?

4 MR. FENNER: Yes, sir. I can provide you
5 that.

6 CHAIRMAN PABLOS: Commissioners, any
7 other comments, questions?

8 MS. O'CONNELL: But was the AG opinion
9 relating to this -- was that addressing getting a
10 temporary license or was it addressing just simply
11 starting simulcasting at your licensed location?

12 MR. FENNER: It was not specific to a
13 temporary location. It was more about preopening
14 simulcasting. Just -- I don't -- they didn't make a
15 distinction because it just wasn't before them. The
16 situation before them was on-site.

17 MS. O'CONNELL: Right. Okay.

18 CHAIRMAN PABLOS: We're blazing new
19 trails here. We're trying to get creative.

20 MS. O'CONNELL: And then what is the --
21 why do you think the Commission did a resolution back
22 in the day on this rather than something else? Was
23 that their only option, I guess? Did they have
24 rulemaking?

25 MR. FENNER: Well, certainly they had

1 rulemaking. Why did they do a resolution rather than
2 go through rulemaking, I am not certain.

3 MS. O'CONNELL: And what is the legal
4 precedent, if any, of the resolution for the current
5 Commission?

6 MR. FENNER: Well, it's not a rule. It's
7 not binding on this Commission. It's guidance. It's
8 guidance to staff and guidance to future Commissions.
9 But if -- let's say that we do this -- the staff report
10 on the VDLT application. I could very well go down
11 line by line on these items that the prior Commission
12 identified as factors for you to consider, and you
13 consider them and you decide that "I don't like the way
14 this one applies in this circumstance" and make a
15 different decision.

16 Say that the hundred miles is not
17 important to you in today's world or that the five-mile
18 limitation is not important to you. That's perfectly
19 defensible. You can't treat it as a rule because then
20 you're getting into a situation where you have done
21 what's called ad hoc rulemaking, which is problematic
22 and can be challenged in its own right.

23 So we'll just treat it as nonbinding
24 guidance from a previous Commission and as factors that
25 you should be considering.

1 MS. O'CONNELL: And the application that
2 we've been talking about today has not been distributed
3 to the Commissioners yet. Is that correct?

4 MR. FENNER: That is correct. It has not
5 been distributed, no. It has not.

6 MS. O'CONNELL: And we don't actually
7 have an application that other racetracks or even this
8 racetrack can use. Is that right? I mean, I think
9 it's great that we're thinking outside the box and
10 coming up with new ideas; but on the other hand, we've
11 got a little bit of the cart before the horse in that
12 we're talking about approving an application on a
13 process that we have not yet made.

14 MR. FENNER: That's --

15 MS. O'CONNELL: Is that --

16 MR. FENNER: That's true. And why we're
17 looking for guidance today is that when the applicant
18 sat down to develop their application, they used as a
19 model the application for a new license and filled out
20 the parts that they thought were relevant. But of
21 course, the parts relating to the location of the test
22 barn and the surface and the track surface and the rail
23 and all that is not applicable here, so they pulled out
24 the portions that were common. But I don't have a
25 temporary location application that I can hand out to

1 people.

2 MS. O'CONNELL: Okay. Now, if you have
3 a -- if the interpretation of 6.15 is that construction
4 need not have begun, then how can the Commission be
5 ensured that granting a temporary license for
6 simulcasting that's going to last two years is going to
7 promote that particular licensee into actually building
8 a facility for live racing?

9 MR. FENNER: That's a very good
10 question.

11 CHAIRMAN PABLOS: Those are the -- those
12 are the -- Commissioner, those are the actual
13 requirements that we'll be free to impose if we move
14 forward on it. Absolutely.

15 MR. FENNER: You can impose standards and
16 conditions. 6.15 talks about you requiring standards
17 and conditions. So if the Commission wanted to
18 condition the granting of a temporary location on their
19 beginning site work by a date certain, that would be
20 within your discretion.

21 MS. O'CONNELL: Okay. Thank you.

22 COMMISSIONER EDERER: Can you set out for
23 us and distribute to us what our options are in
24 preparation of the meeting in August?

25 MR. FENNER: Well, I mean, there is --

1 some options would be to refer this to the rules
2 committee and say just go adopt -- bring us some
3 rules. And that would tell VDLT it's more important
4 that we have a firm process out than it is to move
5 expeditiously with this specific application.

6 We could prepare a staff report based on
7 our discussion today and the resolution that was
8 adopted 17 years ago and you could at the August
9 meeting determine what has changed and whether you need
10 to make any edits to the resolution and whether the
11 application should be approved.

12 You could direct us to bring back a
13 different resolution for you for approval, which
14 wouldn't take as long as rulemaking but would require
15 an additional meeting.

16 Those are the things that occur to me as
17 most likely solutions.

18 COMMISSIONER EDERER: Well, considering
19 that time is of the essence, what would be the most
20 expeditious?

21 MR. FENNER: The most expeditious
22 solution would be to evaluate this application they
23 submitted in light of the resolution. I sense today
24 that there is a highlighted emphasis on the potential
25 for conflict with Valley Race Park, and so we would try

1 to flesh that out a little bit more so you're able to
2 make an informed decision on that. The issue with the
3 five miles comes to mind as being something that's --
4 because this is farther than five miles.

5 Those are issues that I've heard you
6 focus on today, particularly the competition with
7 Valley Race Park.

8 COMMISSIONER EDERER: Can you give us
9 some guidance then? Will you be able to give us what
10 our options are?

11 MR. FENNER: In terms of the approval of
12 the application?

13 COMMISSIONER EDERER: No, no, not in --
14 yes, what our options would be if we wanted to put some
15 restrictions on it.

16 CHAIRMAN PABLOS: And then, Commissioner,
17 that's going to be within the interim period. That's
18 what staff will do.

19 COMMISSIONER EDERER: That's what I'm
20 saying. That's what I'm asking, yes. Okay. Good.
21 That's what I wanted.

22 COMMISSIONER HAYWOOD: I think just to
23 clarify, to make sure, in terms of what restrictions or
24 what other things we could put in conditional approval,
25 I think, is -- is that, Commissioner Ederer, what

1 you're getting at?

2 COMMISSIONER EDERER: Yes.

3 MR. FENNER: Okay. I understand. Thank
4 you for that clarification.

5 COMMISSIONER EDERER: And could we have
6 that, say, 10 days before the meeting? That would be
7 very helpful, I think, for us.

8 MR. FENNER: Yes, sir.

9 CHAIRMAN PABLOS: What I would ask Chuck
10 to do is very similar to what we did with Lone Star.
11 We'd have briefings, in-person briefings, Commissioner,
12 so you'd have an opportunity to speak.

13 Chairman Polunsky, did you have a
14 comment?

15 MR. POLUNSKY: I just had a question for
16 Mr. Ederer with respect to his comment that time is of
17 the essence. Why do you feel that?

18 COMMISSIONER EDERER: Because the
19 industry is asking that, only. That's the only reason
20 is because the industry has asked us to move forward as
21 quickly as we could.

22 MR. POLUNSKY: Okay. Thank you.

23 CHAIRMAN PABLOS: And also, Chairman
24 Polunsky, time is of the essence because we have
25 started the process of ensuring that all of the

1 inactive licenses become active as soon as possible.
2 So it's also a sense of urgency that we've created
3 simply because we've got licenses that have been out
4 there for over 20 years and, as a policy, we are
5 certainly wanting to make sure that these license
6 holders activate their licenses as soon as possible.

7 Okay. Thanks for the discussion. I
8 appreciate it. And we'll move forward accordingly,
9 Chuck. Thank you.

10 We'll move on to Item C, into our
11 progress report section. At this time we'll take up
12 C-1, progress report by Austin Jockey Club.

13 I'd like to recognize Mr. Bryan Brown,
14 please.

15 MR. BROWN: Good afternoon,
16 Commissioners. Bryan Brown with the Austin Jockey
17 Club.

18 Since the last meeting, a couple of
19 things to update you on. One, the Department of Public
20 Safety background checks have been completed for the
21 proposed new buyer, the buyer of the Longhorn Downs,
22 Inc. entity.

23 And secondly, we have received word that
24 the developers of a municipal utility district are very
25 interested in speaking with us about how to incorporate

1 what we are proposing in our site into what they are
2 proposing with the district.

3 In that regard, we'd love to have the
4 mayor of Creedmoor come up, if it pleased the
5 Commission. He'd like to say a few words about the
6 view of Creedmoor and our track, our proposed track. I
7 think he has a card if he hasn't turned it in yet.

8 CHAIRMAN PABLOS: Yes, I do have a card
9 from the mayor.

10 Mayor, are you here?

11 MR. BROWN: Yes. This is Mayor Robert
12 Wilhite with the City of Creedmoor.

13 CHAIRMAN PABLOS: Mayor Wilhite, would
14 you please -- did you want to have an opportunity to
15 address the Commission?

16 MR. WILHITE: Sure.

17 CHAIRMAN PABLOS: Come on up.

18 MR. BROWN: And I'll be back to answer
19 any questions.

20 MR. WILHITE: How are you all doing? I'm
21 Robert Wilhite. I have been the mayor of Creedmoor for
22 28 years. I've been a lifetime resident of 54 years,
23 lived there all my life and am very familiar with the
24 area. We're very excited about the opportunity to
25 possibly have a racetrack come to our city.

1 We've officially and unofficially kind of
2 canvassed the area. Being a small town like we are,
3 it's very easy to do. I'm also a business owner. I
4 own a store and a barbecue restaurant there, so I see a
5 lot of people and have the opportunity.

6 And obviously when the article hit the
7 front page of the newspaper, the Austin
8 American-Statesman, here last year sometime, about the
9 possibility of a racetrack coming, of course, everybody
10 came and asked all these questions, what's going on.

11 So we've had a very positive input of the
12 possibility of this track coming to Creedmoor. Our
13 City Council is excited about it. I've talked to the
14 area resident church there, the Baptist church, Walter
15 Mays, who is the pastor. I kind of timidly walked up
16 to him and said, "Are we going to have a problem with
17 this?" And he assured me that his church and himself
18 would not have any opposition to this racetrack.

19 That is unofficial obviously because that
20 was during a coffee break, but I did feel it important
21 that I speak to most of the people because I'm going to
22 have to deal with that situation as it progresses on.

23 And so we're real excited. We like the
24 potential owners that are coming to our area. They've
25 been very helpful in speaking to us, giving us

1 information. And I was excited to be invited to come
2 to this Racing Commission meeting here today to see how
3 you all operate. And it's very interesting. I enjoyed
4 it and appreciate it.

5 And if I can answer any questions to you
6 all, I'd love to do that.

7 CHAIRMAN PABLOS: Thank you, Mayor.

8 Commissioners, any questions?

9 Thank you, Mayor. Appreciate it.

10 MR. WILHITE: Thank you.

11 CHAIRMAN PABLOS: Speaking of potential
12 owners, I'd like to ask Mr. Brown and perhaps even
13 Mr. Archer -- I see he's here -- to bring us up to
14 speed as it relates to the litigation piece that we
15 have at hand.

16 I'll ask also Mark -- does that
17 microphone, Mark, work right there?

18 MR. FENNER: Yes, sir.

19 CHAIRMAN PABLOS: Could you in a very
20 short one-minute -- can you just bring us up to speed
21 with this particular issue, this license, where we were
22 a few years ago, my discussion with Mr. Archer last
23 year, a year and a half ago, and where we are today
24 with it just so that we can all have a better context
25 of this?

1 MR. FENNER: Sure. After the Commission
2 denied --

3 CHAIRMAN PABLOS: Mr. Archer, you can
4 stay up there. Don't go anywhere.

5 MR. FENNER: After the Commission denied
6 the Austin Jockey's request to transfer the license to
7 Dallas City Limits, there was litigation that began
8 between Dallas City Limits and the Austin Jockey Club
9 and initially against the Texas Racing Commission to
10 fight that. They wanted to enjoin the Commission from
11 taking any action against the license. We were
12 eventually nonsuited from that.

13 And then even though we were not -- no
14 longer a party to the litigation, we have kept an eye
15 on it. The Austin Jockey Club and the Dallas -- Dallas
16 City Limits did go through a full trial, I believe.
17 Mr. Archer will correct me if I make a mistake, I'm
18 sure.

19 The jury ruled in Dallas City Limits'
20 favor; but ultimately the judge issued a take-nothing
21 judgment against Dallas City Limits, leaving the
22 license in the hands of the Austin Jockey Club.
23 However, the case has been appealed and it's my
24 understanding that there is also litigation over the
25 common stock of Longhorn Downs, the license holder, and

1 that that common stock is in escrow in Houston. And so
2 the Austin Jockey Club, I believe, is in litigation to
3 have that common stock released. And that's where they
4 are right now to my knowledge.

5 CHAIRMAN PABLOS: Okay. Thank you,
6 Mark.

7 Mr. Archer?

8 MR. ARCHER: That's partially correct.
9 I'd like to add to it a little bit.

10 CHAIRMAN PABLOS: Absolutely. Good
11 afternoon. That's why I wanted you to be here. What
12 I'd like to do kind of do, first of all, is to lay the
13 groundwork. Many years ago, four or five years ago,
14 you were asked to bring a qualified buyer to the table;
15 and two years ago almost this September, you brought
16 Dr. Alameel, his group, to the table. This Commission
17 denied the request to bring him on board, correct?

18 MR. ARCHER: Correct.

19 CHAIRMAN PABLOS: And at that time you
20 were asked to bring a qualified buyer to the table, and
21 it sounds and it looks like you might have a qualified
22 buyer. Is that correct?

23 MR. ARCHER: We believe we do, yes.

24 CHAIRMAN PABLOS: Okay. So now with
25 respect to what Mark has said, you wanted to make some

1 adjustments to his commentary?

2 MR. ARCHER: Well, for the Commissioners
3 that were not here back on that wonderful day in
4 September of 2009 when Mr. Shamoun came in and made
5 such a spectacle of himself, and Dallas City Limits
6 did, as a result of that hearing, the Commission
7 unanimously denied the application that we had been
8 waiting on for so long, both the Commission and the
9 Austin Jockey Club.

10 As a result of that denial, several
11 things happened. First of all, the Austin Jockey Club
12 issued a 30-day cure letter under our contract to
13 Dallas City Limits. The executive director issued a
14 clarification order on that order of the Commission
15 giving Dallas City Limits, but most importantly Austin
16 Jockey Club, so much time, until November the 6th, to
17 clean up this mess that was created by this application
18 that was supposed to be complete.

19 And we -- obviously, under the act, the
20 120-day rule started running that they could file a
21 motion for -- or we could file a motion for rehearing
22 with the Commission.

23 On November the 6th we came here to
24 the -- to Austin for a Racing Commission meeting with
25 the executive director, not a full Commission meeting

1 but a meeting with the director as ordered by the
2 executive director. And we had given Dallas City
3 Limits the same notice to come and do those things.

4 On that day, out in the parking lot at
5 the Racing Commission, they failed to show. We entered
6 into an agreement with KTAGS, the group that's now
7 before you, and walked in and met with the executive
8 director. We did not know on that same day we got sued
9 in Dallas County, both the Texas Racing Commission and
10 the Austin Jockey Club.

11 The 120-day period continued to run for
12 them to file a motion for rehearing to come before the
13 Commission. So our position was that, number one, we
14 had a final, nonappealable order that the Racing
15 Commission has issued. They did not appeal it. And
16 that application is dead. We terminated the contract
17 on November the 6th. That was tried to the Dallas
18 Court.

19 For the lawyers on the Commission, they
20 waived damages and sued for specific performance. They
21 weren't entitled to specific performance, so the judge
22 entered a take-nothing judgment.

23 Our position before the Appellate Courts
24 is very simple. We've terminated the contract. You
25 didn't ask for damages. You don't get specific

1 performance. And it's res adjudicata now. There's
2 nothing to retry. And we're going on with KTAGS.

3 Their position is that we wrongfully
4 terminated, which was tried. And they can argue we
5 wrongfully terminated, but that's simply damages. So
6 our position is it's over and that we would prefer to
7 go on.

8 As a result of all that, having gone
9 through the depositions with Dr. Alameel, having gone
10 through the trial, listened to the positions, their
11 position is that they own the license, which is totally
12 absolutely illegal, that they have two days after VLT's
13 pass to even start building a racetrack, which is
14 ridiculous.

15 We have time is of the essence in the
16 contract. We have best efforts in the contract. Many
17 things came out from the discovery, such as Dr. Alameel
18 told the owner of the land, the owner of the land that
19 he supposedly had that he didn't have, that he never
20 intended to build a racetrack on that land and this
21 business about the two days and many other things that
22 I've told the chairman that we have knowledge of.

23 CHAIRMAN PABLOS: Well, you know, that's
24 a little bit too much information for me. I mean, my
25 head is kind of spinning with all of the legalese and

1 I'm an attorney. So let's do this. First of all,
2 Dr. Alameel during that meeting came for consideration
3 with no land and no financing. Has he since then given
4 you any indication that he has land or financing?

5 MR. ARCHER: Since September 15, 2009,
6 the only thing we've heard from Dr. Alameel is the
7 lawsuit.

8 CHAIRMAN PABLOS: Okay.

9 MR. ARCHER: He is not ready, willing,
10 and able to go forward.

11 CHAIRMAN PABLOS: Let me ask you, would
12 you be kind enough to put this in writing for us? I
13 mean, it's hard to follow. This thing has been going
14 on for many years. We have a buyer. I want to move
15 forward with this. But at the same time, as a courtesy
16 to Dr. Alameel, I want to hear more or less, you know,
17 where all this is so that we can, you know, understand
18 it a little better. Would you mind putting all that in
19 writing?

20 MR. ARCHER: I'd be happy to do so.

21 CHAIRMAN PABLOS: Commissioners, is there
22 any question or anything, any comment, questions on
23 this item?

24 You know, it's important for us to get a
25 better grasp of where all of this is from a legal

1 perspective. As you know, anything that's tied up in
2 litigation is very difficult to consider.

3 But, you know, if you were to put this in
4 writing for us, we might have a better grasp of it.

5 MR. ARCHER: I'll be happy to do that.

6 CHAIRMAN PABLOS: Would that be
7 acceptable to you?

8 MR. ARCHER: Mr. Chairman, would you
9 indulge me 30 seconds more on another subject that I
10 didn't fill out a card on?

11 CHAIRMAN PABLOS: I don't -- I don't
12 like -- I don't like this, but --

13 MR. ARCHER: I'm not going to surprise
14 you. It's on the same thing that you all have been
15 talking about, this simulcasting.

16 CHAIRMAN PABLOS: I'll make an
17 exception. Go ahead.

18 MR. ARCHER: Back in 1995 and the '94
19 period that you've been talking about, I was president
20 of the Texas Thoroughbred Association and was part of
21 the team that negotiated with Lone Star. We actually
22 loaned Lone Star five million dollars out of our share
23 to make the project work. I was also on the other side
24 of the deal, opposing Retama, because we were all very
25 knowledgeable back then, but we really didn't know what

1 we were doing.

2 I would only say to you that you need to
3 remember that it's county-specific because of the
4 referendum that was passed and the law that was passed;
5 so when you draw the lines, you can't just go
6 anywhere. It has to have been approved by the County.

7 Secondly, the big thing about making
8 these things work is the ability to buy the signal.
9 You can't just go throw this thing up and make it
10 profitable. So if these little smaller Class 2's can't
11 compete for the signal, if they can't buy the Kentucky
12 Derby, if they can't buy any signals, it isn't going to
13 do them any good.

14 So what has happened is now you have
15 Global, you have Penn, you have all these big players
16 in the market. There has to be this consortium of
17 purchasers and that's what will make it work.

18 Thank you very much.

19 CHAIRMAN PABLOS: Thank you for your
20 comments. Appreciate it.

21 Okay. We'll move on to Item C-2,
22 progress report by Saddle Brook Park.

23 I'd like to recognize Drew Alexander,
24 please.

25 MR. ALEXANDER: Commissioners, I'm Drew

1 Alexander from Amarillo, Texas. I'm glad to be here
2 today.

3 I've heard more really good thinking,
4 good comments, thinking out of the box -- thinking
5 outside the box today than I've heard in a long time.
6 And it looks like that maybe there's a future for Texas
7 racing after all.

8 I think maybe one of the things we need
9 to do -- Mark and his group are asking you questions.
10 You're asking them questions. Maybe what our tracks
11 need to do is come to you with a proposal and see --
12 say, "We can take this. This is what we can make
13 work." So if you can -- if you can let us know whether
14 you'll let us do that, whether there's maybe some
15 alternatives, whatever, I bet we could make it work.
16 But --

17 CHAIRMAN PABLOS: We have been asking you
18 to do that.

19 MR. ALEXANDER: Huh?

20 CHAIRMAN PABLOS: We have been asking for
21 this for a while.

22 MR. ALEXANDER: Well, I know. But we
23 have asked and said, "No, we're not going to be able to
24 ever do anything like that."

25 CHAIRMAN PABLOS: We welcome any

1 proposals.

2 MR. ALEXANDER: Okay. I understand
3 that.

4 I think what's so important to understand
5 is that -- there was a question awhile ago about how
6 much money do you make during live when you're doing
7 live racing as opposed to simulcasting. Tracks don't
8 make any money during live races; and the more days
9 they run, the more money they lose.

10 So when you -- when you put too many
11 guidelines on a Class 2 track like we have, where
12 "We're going to let you do a facility but you've got
13 to have a track built in so many days," it's like
14 telling a group of attorneys or a group of
15 veterinarians or whatever that you've got to have so
16 many stalls and so many acres and so much land and so
17 many partners and so on and so forth. And you say,
18 "Well, we don't have the business to support that."
19 "Well, we want you to build it anyway."

20 That's kind of where we are. There is
21 not any way that anybody can go out and build a track
22 in this market today and make any money. They're going
23 to lose their shirt. It's just -- it's a matter of
24 fact. All the tracks are in trouble. The ones that
25 are already built are in trouble. So to go build a

1 brand-new one and expect us to have a full racing
2 facility going in two or three years is just not
3 possible.

4 But some of the things that I've heard
5 today, I think with help from you all and our
6 Commission, I think maybe we can make some of that
7 work. But it's going to take some time. Racing is at
8 a crossroads in Texas. And the decisions that we make
9 and we get done in the next four or five months are
10 critical. And it could be the end of racing in Texas
11 if we make some mistakes.

12 Nobody wants to go in -- as a
13 businessman, nobody wants to go in and do anything
14 that's going to make -- when they know it's not a
15 maybe, are we going to make any money. It's an
16 absolute. You know you're going to lose your money.
17 You're going to be broke in six months or eight months
18 or a year after you open a facility like that.
19 Everybody -- every track can give you the statistics to
20 show you that they're just not going to make it.

21 We don't want any more failures. So I
22 think what I'm saying is that we can bring proposals to
23 you guys and to our Commission and I guess the word
24 might be leniency, give us some time to get these
25 things done. Let the economy get a little better. Let

1 the horse business get a little better. And I think
2 maybe it can work.

3 So I appreciate very much what you had to
4 say today because it's -- it was very enlightening. So
5 I would try to answer any questions anyone might have
6 for me.

7 CHAIRMAN PABLOS: So where are you on
8 your track, sir?

9 MR. ALEXANDER: What?

10 CHAIRMAN PABLOS: Where are you with your
11 progress?

12 MR. ALEXANDER: We aren't -- you know,
13 Mark told me that we were going to have to submit a new
14 application to do that, but with some of the things
15 that we have going on -- and I would like for you to
16 clarify something, Mark, if you would. When you said
17 off premises, are you talking about -- I'll give you an
18 example. I have 300 acres --

19 CHAIRMAN PABLOS: Excuse me. I'd like
20 for you to have that discussion off-line with Mark.
21 All I'm looking for right now is: Where are you with
22 the progress of beginning live racing? I mean, you had
23 talked about a potential buyer for your facility or for
24 your license.

25 MR. ALEXANDER: That's correct.

1 CHAIRMAN PABLOS: Where are you with
2 that?

3 MR. ALEXANDER: I was -- I think
4 everybody -- I think everybody involved in that was
5 waiting on a ruling from the Attorney General today,
6 which didn't happen.

7 CHAIRMAN PABLOS: Right.

8 MR. ALEXANDER: So if that takes -- I've
9 been told that might take another 180 days. I hope
10 not. It doesn't always. So maybe within the next two
11 or three weeks. I hope to have something to bring back
12 to you that's definite at our August meeting.

13 CHAIRMAN PABLOS: How is the Attorney
14 General's opinion relevant to this?

15 MR. ALEXANDER: Well, as you know, the
16 agreement that I have to sell my license is with Global
17 Gaming.

18 CHAIRMAN PABLOS: Right.

19 MR. ALEXANDER: And if the Attorney
20 General ruled that the 51 percent ownership is not
21 constitutional, then they don't have to go through what
22 they went through with Lone Star Park.

23 CHAIRMAN PABLOS: So it's pending on
24 that.

25 MR. ALEXANDER: No, it's not pending on

1 that. It was that they wanted to wait and see what the
2 ruling was before we proceeded.

3 CHAIRMAN PABLOS: That's fair enough.
4 Okay.

5 MR. ALEXANDER: Okay.

6 CHAIRMAN PABLOS: Very well.

7 Any questions, Commissioners?

8 Thank you very much.

9 MR. ALEXANDER: You bet. Thank you.

10 CHAIRMAN PABLOS: Okay. We're going to
11 move quickly. We have a couple of Commissioners that
12 need to catch a flight. I had told them that this
13 would be a short meeting and it's a little longer than
14 I expected, so we'll move forward quickly.

15 Items C-3 and 4, progress reports by
16 Valle de los Tesoros and Laredo Downs.

17 Mr. Moltz, we've heard a little bit about
18 Valle de los Tesoros and so what do you have on Laredo
19 Downs?

20 MR. MOLTZ: Okay. On the Laredo Downs,
21 there's an application pending with the staff for a
22 relocation.

23 CHAIRMAN PABLOS: Okay.

24 MR. MOLTZ: I'm not sure where that
25 stands. Perhaps Mr. Fenner or Mr. Jackson can tell

1 you.

2 CHAIRMAN PABLOS: Well, I'll tell you
3 where that stands. Just like we had a policy
4 discussion today on temporary licenses, I intend to
5 have a policy discussion on transfer of licenses. And
6 so, you know, we understand you have put -- you've
7 actually paid the fee, correct?

8 MR. MOLTZ: Yes. I believe we have,
9 yes.

10 CHAIRMAN PABLOS: So that's sitting in
11 escrow somewhere? Or how does that work, Mark?

12 MR. MOLTZ: I think we gave a check --

13 MR. FENNER: They have provided the fee
14 and the agency is holding it in escrow pending --

15 CHAIRMAN PABLOS: So I understand you
16 have some money up and so we're going to address that
17 issue; but again, just like we had the discussion today
18 on temporary licenses, I'd like to have a discussion on
19 transfer of licenses from one location to another.

20 MR. MOLTZ: Okay. I understand.

21 CHAIRMAN PABLOS: Thank you.

22 Item 5, progress report by Laredo Race
23 Park.

24 Andrea Young, please?

25 MS. YOUNG: Commissioners, I'll be

1 brief. As stated in my letter here, we have had to go
2 back to the drawing board considerably on our plans in
3 Laredo. We've evaluated a number of options. And we
4 actually have a board meeting scheduled for tomorrow
5 with our new ownership group. It's a combination board
6 of both Penn and Maxxam. We'll be going through those
7 items. And hopefully we can provide you some better
8 guidance at the next Commission meeting.

9 I'm happy to answer any questions.

10 CHAIRMAN PABLOS: Any questions,
11 Commissioners?

12 Okay. Thank you very much.

13 MS. YOUNG: Thank you.

14 COMMISSIONER HAYWOOD: Mr. Chairman, I
15 have one.

16 CHAIRMAN PABLOS: Yes.

17 COMMISSIONER HAYWOOD: Can you provide us
18 any more information on what those items are that
19 you're looking at? Is it strictly related to where the
20 facility would be or is it beyond that scope?

21 MS. YOUNG: It's pretty -- to the extent
22 that I'm able to talk about them today, it's pretty
23 specific to where the facility would be. There are a
24 couple of other options I think we'll throw on the
25 table and discuss, but I think that's generally where

1 the primary piece of the conversation will lie.

2 CHAIRMAN PABLOS: Ms. Young, one
3 question. Do you have any intention of meeting your
4 race dates that have been awarded to you?

5 MS. YOUNG: No, we will not be able to
6 meet those dates.

7 CHAIRMAN PABLOS: Anyone else,
8 Commissioners?

9 Okay. Thank you.

10 MS. YOUNG: Thank you.

11 CHAIRMAN PABLOS: Okay. Item 6, Manor
12 Downs, progress report by Manor Downs.

13 Mr. Howard Phillips, please?

14 MR. PHILLIPS: Good afternoon,
15 Mr. Chairman, Commissioners.

16 As you know, Manor Downs is currently
17 involved in a recapitalization project. Under that
18 private placement memorandum, we had the option of an
19 extension from May 31st to August 31st -- excuse me,
20 July 31st. And we took that option as we continue our
21 attempt to raise money.

22 I'd be glad to answer any questions.

23 CHAIRMAN PABLOS: So right now you're
24 raising funds?

25 MR. PHILLIPS: That's what we're involved

1 in. The original date was May 31st, with an option to
2 extend it to July 31st, which we took.

3 CHAIRMAN PABLOS: Okay. Any questions,
4 Commissioners?

5 Now, one question. You've satisfied your
6 race dates for this year? I mean, you're done? Is
7 that correct?

8 MR. PHILLIPS: Yes. We didn't apply for
9 2011 race dates.

10 CHAIRMAN PABLOS: So you don't have any
11 race dates this year at all.

12 MR. PHILLIPS: We paid the hundred
13 thousand.

14 CHAIRMAN PABLOS: Yes. Thank you.

15 Okay. We'll move on to Item V,
16 proceedings on rulemaking. And given that our rules
17 committee has done a great job on this section, we'll
18 just -- I'd like to move through these fairly quickly,
19 if I may.

20 MR. FENNER: Yes, sir.

21 Commissioners, there are four rule
22 proposals. These are to Rules 321.1, .35, .41, and
23 .42. All of these changes are intended to address an
24 issue whereby, under the current rules, if somebody
25 loses their ticket or voucher, they are not able to

1 collect any winnings that they've earned even if under
2 the track's modern capabilities they can verify that
3 that ticket or voucher was won by that -- or purchased
4 by that particular individual.

5 So what these changes will do, it will
6 allow a racetrack to pay somebody for a lost winning
7 ticket or voucher as long as they are capable of
8 verifying that that person did, in fact, make that
9 wager.

10 So 321.1 inserts a definition of a player
11 tracking system. 321.35 sets out the criteria for the
12 payment of a lost ticket or voucher. And then the
13 changes to 321.41 and 42 say that the association will
14 not be liable if they pay for a lost ticket or voucher
15 under the new rules that are being adopted under 31 and
16 35.

17 Does anybody have any questions about
18 that?

19 CHAIRMAN PABLOS: Any technical
20 questions, Commissioners?

21 This has been vetted by our rules
22 committee.

23 MR. FENNER: Yes, sir.

24 CHAIRMAN PABLOS: Okay. Thank you,
25 Mark.

1 Is there anyone signed up to speak on
2 this?

3 Okay. So, Commissioners, we in front of
4 us have a request to publish the amendments to these
5 rules in the Texas Register. I'd like to ask for a
6 motion, please.

7 COMMISSIONER MARTIN: Make a motion.

8 CHAIRMAN PABLOS: We have a motion by
9 Dr. Martin to publish.

10 Is there a second?

11 VICE-CHAIRMAN SCHMIDT: Second.

12 CHAIRMAN PABLOS: Seconded by
13 Dr. Schmidt.

14 Is there any discussion on this?

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

17 COMMISSIONERS: Aye.

18 CHAIRMAN PABLOS: Any opposed?

19 That motion carries. Thank you.

20 Our next items, E through G, Mark Fenner,
21 please.

22 MR. FENNER: Commissioners, we opened up
23 for rule review Chapters 307, 321, and 323 back in
24 December of 2009. We've adopted a number of amendments
25 to the rules during that -- since that time. And we

1 believe that we are ready to conclude the rule reviews
2 of those three chapters with the exception of
3 Subchapter B of Chapter 321 which is undergoing some
4 further editing and vetting with the national Racing
5 Commissioners International. We're hoping to be able
6 to get that subchapter into position so that it can be
7 a national standard.

8 So with that, the staff is recommending
9 that we close the rule reviews of those three chapters
10 with the exception of Subchapter B of Chapter 321.

11 CHAIRMAN PABLOS: Okay. Commissioners,
12 any questions of Mark?

13 Anyone signed up to speak on this item?

14 Okay. So at this time I'd like to
15 entertain a motion to readopt the chapters and the
16 subchapters that Mark has described.

17 Is there a motion?

18 VICE-CHAIRMAN SCHMIDT: So move.

19 CHAIRMAN PABLOS: Moved by Dr. Schmidt.

20 Is there a second?

21 COMMISSIONER WEINBERG: Second.

22 CHAIRMAN PABLOS: Seconded by
23 Commissioner Weinberg.

24 Any further discussion?

25 Okay. At this time I'd like to entertain

1 a vote. All those in favor please signify by saying
2 aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN PABLOS: Any opposed?

5 That motion carries.

6 Items H through J, Mark, please.

7 MR. FENNER: Commissioners, the
8 Government Code requires State agencies to review all
9 of their rules at least once every four years. The
10 review -- the rules in Chapters 301, Definitions, 303,
11 General Provisions, and 319, Veterinary Practices and
12 Drug Testing, were last reviewed almost exactly four
13 years ago. We would like to open up these sections for
14 rule review and begin that process.

15 CHAIRMAN PABLOS: Any questions,
16 Commissioners?

17 Anyone signed up to speak?

18 Okay. At this time I'd like to entertain
19 a motion to publish these chapters for rule review and
20 request public comment. Is there a motion?

21 COMMISSIONER HAYWOOD: So move.

22 CHAIRMAN PABLOS: Moved by Commissioner
23 Haywood.

24 Is there a second?

25 COMMISSIONER MARTIN: Second.

1 CHAIRMAN PABLOS: Seconded by
2 Dr. Martin.

3 Any discussion on this?

4 All those in favor please signify by
5 saying aye.

6 COMMISSIONERS: Aye.

7 CHAIRMAN PABLOS: Any opposed?

8 That motion carries.

9 At this time we'll move on to Item VI.

10 We'll move on to executive session. We won't be long.

11 The time is now 12:33 and we will enter executive

12 session under Government Code 551.074(a)(1) to discuss

13 the employment, evaluation, and duties of the executive

14 director. Thank you.

15 (Recess for executive session from 12:32
16 p.m. to 12:52 p.m.)

17 CHAIRMAN PABLOS: Okay. We are

18 reconvening out of executive session. The time now is

19 12:53. We discussed the employment, evaluation, and

20 duties of the executive director and take no action at

21 this time.

22 Commissioners, is there any old or new
23 business?

24 Hearing none, the time is 12:53 and at

25 this time I'd like to adjourn today's meeting of the

1 Texas Racing Commission. Thank you very much.

2 (Proceedings concluded at 12:53 p.m.)

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1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

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

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

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,
15 Texas, this ____ day of _____, 2011.

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