

BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

COMMISSION MEETING
SEPTEMBER 21, 2011

BE IT REMEMBERED that the above entitled matter came on for hearing on the 21st day of September, 2011, beginning at 10:30 A.M. at the Texas Animal Health Commission, 2105 Kramer Lane, 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: ROBERT SCHMIDT
 RONALD F. EDERER
 MIKE MARTIN
 GLORIA HICKS
 SCOTT HAYWOOD
 VICKI WEINBERG
 ANN O'CONNELL
 ALLAN POLUNSKY

1 CHAIRMAN SCHMIDT: It's now 10:30. Let's
2 call the Texas Racing Commission meeting to order.

3 Ms. Weiss, can you call the roll,
4 please?

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 HICKS: Present.

11 MS. WEISS: Commissioner Mike Martin?

12 COMMISSIONER MARTIN: Present.

13 MS. WEISS: Commissioner Ann O'Connell?

14 MS. O'CONNELL: Here.

15 MS. WEISS: Commissioner Allan Polunsky?

16 MR. POLUNSKY: Here.

17 MS. WEISS: Commissioner Vicki Weinberg?

18 COMMISSIONER WEINBERG: Present.

19 MS. WEISS: Chairman Robert Schmidt?

20 CHAIRMAN SCHMIDT: Present.

21 Carolyn, do we have a quorum?

22 MS. WEISS: Yes, sir.

23 CHAIRMAN SCHMIDT: Great.

24 Public comment? Ms. Cook, do we have
25 anyone signed up to speak?

1 MS. COOK: No, sir.

2 CHAIRMAN SCHMIDT: No testimony so far.

3 Thank you.

4 Let's just move next to general business,
5 a report by the executive director and staff regarding
6 administrative issues, budget and finance.

7 Shelley, can you bring us up to date,
8 please?

9 MS. HARRIS-CURTSINGER: Good morning,
10 Commissioners.

11 Under Tab III-A-1 you will find an update
12 on the agency's FY 2011 budget status as of August
13 31st, 2011, with 95 percent of the expenditures being
14 reported. As we begin the new fiscal year, the finance
15 committee meeting taking place, and the agency
16 assessing our budget, we will be finalizing the FY 2012
17 budget and preparing an operating budget that is due to
18 the Legislative Budget Board in early December for your
19 approval at the next Commission meeting.

20 I'll be happy to answer any questions.

21 CHAIRMAN SCHMIDT: Any questions by any
22 of the Commissioners?

23 Thank you very much, Shelley.

24 Mr. Jackson, if you'd bring us up to date
25 on racetrack inspections and wagering statistics.

1 MR. JACKSON: Yes, sir.

2 Commissioners, on page III-B-1 of your
3 agenda packet you'll find the report on racetrack
4 inspection activities as of September 13th, 2011.

5 The report reflects that the staff
6 conducted five administrative inspections, resulting in
7 one unsatisfactory item that has now been resolved.

8 We conducted six pari-mutuel wagering
9 inspections, resulting in one unsatisfactory item that
10 has now been resolved.

11 We provided and conducted five safety and
12 security inspections that resulted in no unsatisfactory
13 items.

14 We conducted four veterinary inspections,
15 resulting in three unsatisfactory items and they have
16 all been resolved.

17 And we conducted one greyhound judge
18 inspection and it resulted in five unsatisfactory items
19 that have all been resolved.

20 And lastly, we conducted four horse
21 steward inspections, resulting in three unsatisfactory
22 items, of which one has been resolved and two are still
23 outstanding.

24 The two outstanding items are as
25 follows: The turf course at Retama Park is not usable

1 due to the drought conditions in Central Texas as well
2 as the water restrictions placed on the racetrack
3 itself. And secondly, the snack bar in the jocks'
4 quarters is not being operated at Retama Park. The
5 association is making food available through the track
6 kitchen and the grandstand vendors to compensate.

7 This concludes my report on racetrack
8 inspections. And if you have any questions, I'll be
9 happy to answer them.

10 CHAIRMAN SCHMIDT: Any questions?

11 MR. POLUNSKY: I have a question.

12 MR. JACKSON: Yes, sir.

13 MR. POLUNSKY: There is a restriction on
14 watering at Retama Park because of the restrictions
15 generally?

16 MR. JACKSON: That's my understanding.
17 We'd have to have Mr. Bryan Brown come up and testify
18 to that on the specifics.

19 MR. POLUNSKY: Would that not fall under
20 some type of exception like golf courses and other
21 types of public facilities or --

22 MR. JACKSON: I would -- to be honest, I
23 do not know.

24 MR. POLUNSKY: Okay. Can somebody look
25 into it?

1 CHAIRMAN SCHMIDT: Is Mr. Brown in the
2 audience? Bryan?

3 MR. BROWN: No problem.

4 CHAIRMAN SCHMIDT: We just had a
5 technical question from Mr. Polunsky. The water
6 restrictions at Retama, is that secondary to general
7 restrictions in San Antonio or is there some special
8 exemption given to golf courses and racetracks?

9 MR. BROWN: Sure. Bryan Brown with
10 Retama Park.

11 That's an Edwards Aquifer Authority
12 restriction that's been placed on the owner of the
13 water wells that we draw from. I do understand there
14 are recreational exemptions that can be obtained. I
15 don't know that they would apply to us. We have not
16 been the recipient of such an exemption. We certainly
17 could look into it.

18 But I think in any event, even if -- even
19 if we did not have the problem or the issue with
20 gallonage restrictions, we would still have a dry turf
21 course. We could water just to our heart's content and
22 we'd have an issue. And even if we were granted an
23 exemption, we still with the exemption may have, you
24 know, an increased amount of water we could use. We
25 would still potentially run out of water under even an

1 increased amount of allowable usage by the end of the
2 year.

3 So it's something we've got to be very,
4 very careful about because we do use that water to
5 irrigate the turf course -- excuse me, the dirt
6 course. We use the water to use on the dirt course as
7 well.

8 CHAIRMAN SCHMIDT: I can't recall, too.
9 I think your turf course is at least three quarters of
10 a mile?

11 MR. BROWN: Yeah, it's a seven-eighths of
12 a mile course, yes.

13 CHAIRMAN SCHMIDT: It's a big expanse of
14 land.

15 MR. BROWN: Yes. It's very wide. The
16 irrigation system itself could probably use a total
17 revamp. It does not reach some of the middle areas of
18 the course. It reaches it, but just not with as much
19 water as it does on the outer edges, and it's just an
20 issue we've always had. We've gotten over it in years
21 past because we've never had this kind of drought. The
22 drought in San Antonio is comparable to the Dust Bowl
23 drought. It's just been worse in San Antonio than
24 other places and in South Texas. It hasn't been good
25 in Austin either obviously or anywhere in Texas. But

1 we've always had issues that we've been able to hand
2 water over and we just can't -- with this particular
3 drought, we can't get enough water on those areas.

4 CHAIRMAN SCHMIDT: Any further questions
5 of Mr. Brown?

6 MR. POLUNSKY: Thank you very much.

7 MR. BROWN: Thank you. Thank you.

8 And if I could add, we are really working
9 hard to try to get our two premier turf races in mid
10 October on the turf course and we'll be involving the
11 stewards in inspections and Commission staff to try to
12 get to that point. We really want to run those races
13 on the turf course, but we don't want to do something
14 that would permanently hurt the course itself. It will
15 be fine in the long term if we just take care of it
16 now.

17 CHAIRMAN SCHMIDT: Thank you, Bryan.

18 MR. BROWN: Thank you. I'll go back to
19 hiding back there.

20 CHAIRMAN SCHMIDT: Great.

21 Any further questions regarding racetrack
22 inspections?

23 Mr. Jackson, wagering statistics,
24 please.

25 MR. JACKSON: Commissioners, on page

1 III-C-1 through III-C-3 of your agenda packet, you'll
2 find the report on wagering statistics for the periods
3 of January 1st through September 11th for both 2010 and
4 2011. The report reflects that 2011 total wagering
5 activity has declined on each wagering data point
6 tracked as compared to 2010.

7 The following are the overall declines in
8 wagers: Live wagering by approximately 5.9 percent,
9 simulcast same species wagering by approximately 12.3
10 percent, simulcast cross-species wagering by
11 approximately 10 percent, and finally, export on
12 wagering of Texas races by approximately 27.5 percent.

13 Although this news may seem grim, the
14 wagering statistics report does reflect that some
15 associations have showed increases during the same
16 period. For example, Gulf Coast Racing in Corpus
17 Christi has increased its total handle by 6.7 percent.
18 Gillespie County Fair has increased its total handle by
19 7.1 percent. And Retama Park has increased its total
20 handle by 27.8 percent.

21 This concludes my report on the wagering
22 statistics. And if you have any questions, I will do
23 my best to answer them.

24 CHAIRMAN SCHMIDT: Thank you very much,
25 Mr. Jackson.

1 Any other questions regarding wagering
2 statistics?

3 Thank you.

4 MR. JACKSON: Thank you.

5 CHAIRMAN SCHMIDT: Enforcement report?
6 Mr. Gougler? Thank you.

7 MR. GOUGLER: Good morning,
8 Commissioners.

9 You have in front of you under page
10 III-D-1 the statistics -- selected regulatory
11 statistics for the first eight months of this calendar
12 year. If you have any questions on those, I'll be able
13 to answer them for you.

14 But there's one significant case that I
15 wanted to brief the Commissioners on today. On
16 September 1st, TRC investigators completed a
17 detrimental practice case that involved a licensee
18 allegedly training greyhounds with a live lure. We had
19 a hearing on September 1st. During that administrative
20 hearing the licensee agreed to surrender his license
21 for revocation and his license has been subsequently
22 revoked.

23 So I just wanted to make you aware of
24 that. And I'll answer any questions that you might
25 have.

1 Yes, sir?

2 CHAIRMAN SCHMIDT: One technical point.
3 What you're telling us is when the license is revoked,
4 that license revocation applies not only to Texas but
5 the rest of the United States as well?

6 MR. GOUGLER: Right. Most states will
7 honor through reciprocity that it's been revoked here
8 and he can't get licensed. The only way he could ever
9 be reinstated, I believe, is to come back before the
10 Commission and ask you all to reinstate the license.

11 CHAIRMAN SCHMIDT: Any further
12 questions?

13 Thank you very much.

14 MR. GOUGLER: Thank you.

15 CHAIRMAN SCHMIDT: Okay. Now we're in
16 Items E through J. During the summer, I would like to
17 thank the members of the subcommittees, the safety and
18 medication group, the ad hoc committee on finance, the
19 rules committee, and the race date committees for doing
20 some very, very heavy lifting in light of recent
21 legislative action.

22 What we're going to do is move these
23 reports to the relevant part of our agenda when action
24 items are discussed. So we'll call on you later on.
25 Thank you.

1 Item K, discussion of Commission meetings
2 for 2012.

3 Mr. Trout?

4 MR. TROUT: Good morning, Commissioners.

5 The Chair has asked the staff to come
6 with a proposed schedule through next year so that you
7 can make plans. In your manila envelopes I believe
8 you'll find a proposed schedule that covers the next
9 seven meetings, including the meeting this November,
10 through December of 2012.

11 In coming up with this schedule, staff
12 has had to consider some of the requirements that we
13 have to meet. Among them are the strategic plan which
14 is due in June, the legislative appropriations request
15 which is due in mid August, and then in December we
16 have an RCI conference.

17 Now, that doesn't mean that this -- I'm
18 saying that we're trying to push this schedule on you.
19 It's up to you however you want to schedule your
20 meetings. But this is -- this schedule is designed to
21 meet those types of requirements for staff.

22 CHAIRMAN SCHMIDT: Thank you, Mr. Trout.

23 And again, this is just the first pass.
24 We had a very busy year this year, licenses changing,
25 legislation in session. I think next year will be more

1 predictable. And so in order to perhaps make it easier
2 to arrange travel plans, what I'd ask the Commission
3 members to do, the Commissioners to do, is simply
4 review their own personal schedule and speak with
5 Mrs. Weiss during the interim prior to November.

6 We can certainly modify these. We can
7 modify a date or two. What I'd like to do is in the
8 November meeting set a meeting schedule for 2012 which
9 is, if not fixed in stone, fairly firm so we can all
10 travel around it accordingly.

11 Any questions or comments? Great.

12 And, Mark Fenner, can you discuss the
13 process of electing the vice-chair and update us
14 regarding considerations we need to take?

15 MR. FENNER: Yes, sir. With your
16 selection as the chairman and previous designation as
17 the vice-chairman, this creates a vacancy. The rule is
18 very simple. It's 303.6. It provides that in January
19 of even-numbered years, the Commission shall elect one
20 of the members to serve as vice-chair for a term of two
21 years.

22 Previously this has been a fairly simple
23 process. The members of the Commission nominate a
24 member or members. There is no requirement under
25 Robert Rules of Order that there be a second. You can

1 nominate yourself. You can nominate another. And
2 under -- unlike the selection of the chairman, who must
3 come from a member of the public representatives, of
4 which there are five, any member of the Commission can
5 serve as the vice-chair.

6 At the previous time when Chairman
7 Schmidt was selected as the vice-chair, what then Chair
8 Pablos requested was that I brief you. That way you
9 would know that this was coming up. You'd have an
10 opportunity before the next Commission meeting to
11 determine whether or not you would be interested in
12 being the vice-chair or whether you would like to be
13 able to persuade somebody else to be the vice-chair and
14 then be able to confer with the chairman and then come
15 back to the next Commission meeting and you all would
16 make the selection as a group as to who should be the
17 vice-chair.

18 So that's really the process.

19 CHAIRMAN SCHMIDT: Thank you.

20 Any questions of Mark?

21 We will make our selection in November.

22 Thank you. Thank you very much.

23 Item M, approval of internal audit plan
24 for fiscal year 2012. I'd like to recognize
25 Mr. Rufus.

1 MR. RUFUS: Good morning, Chairman,
2 Commissioners. My name is Monday Rufus, representing
3 the firm of Monday N. Rufus, PC. I'd like to introduce
4 my associate Robert Gonzales, CPA.

5 As required by the Texas Internal
6 Auditing Act, Government Code 2102.008, we have
7 prepared the audit plan for fiscal year 2012. We did a
8 risk assessment; and based on that risk assessment, we
9 are recommending the audit of payroll and personnel
10 processes for an audit for fiscal year 2012. We need
11 your approval before we can begin the internal audit
12 activities for fiscal year 2012.

13 And I'll be more than happy to entertain
14 any questions that you may have.

15 CHAIRMAN SCHMIDT: Any Commissioners have
16 any questions of Mr. Rufus?

17 Okay. Thank you.

18 Ms. Harris-Curtsinger, can you give us
19 some perspective or any comments?

20 MS. HARRIS-CURTSINGER: Yes, sir. The
21 staff has reviewed the internal audit plan and we would
22 concur with Mr. Rufus' recommendation.

23 CHAIRMAN SCHMIDT: Okay. Thank you.

24 Any public comment regarding the plans
25 for an audit of 2012?

1 Great. Thank you.

2 Any discussion by the Commission?

3 Good. I'd certainly like to entertain a
4 motion.

5 COMMISSIONER HICKS: I make the motion.

6 CHAIRMAN SCHMIDT: Moved by Hicks to
7 approve the audit plan for fiscal year 2012.

8 COMMISSIONER EDERER: Second.

9 CHAIRMAN SCHMIDT: Seconded by Ederer.

10 Any other discussion?

11 I'll bring it up to a vote. All those in
12 favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN SCHMIDT: Anyone opposed?

15 Okay. It's unanimously approved. Thank
16 you.

17 In the interest of a continuance of older
18 business, per Chairman Pablos, he requested that Mark
19 update -- that Mr. Fenner update us to provide some
20 background information and to review some conditions
21 and standards which we need to consider over the next
22 several months in evaluating a request for a change in
23 venue of a racetrack license.

24 So, Mark, can you bring us up to date?

25 MR. FENNER: Yes, sir.

1 CHAIRMAN SCHMIDT: No action is
2 required.

3 MR. FENNER: I'd like to address you from
4 the podium. It's a little easier.

5 Commissioners, when we're talking about
6 the change of location or the designated place for a
7 racetrack, the relevant sections are Racing Act Section
8 6.14 and 6.04.

9 Now, 6.14, Racing Restricted to
10 Designated Place, provides that on a request of an
11 association, the Commission shall amend -- it uses the
12 word "shall" amend -- a racetrack license to change the
13 location of the track if the Commission makes three
14 findings. First, that the conduct of race meetings at
15 the proposed location will be in the public interest.
16 That's the first thing you have to determine, that it's
17 in the public interest.

18 First you have to -- the next thing you
19 have to determine is that there was not a competing
20 applicant for the original license. And finally you
21 have to determine that the desire to change location by
22 the association was not the result of subterfuge in the
23 original licensing proceeding.

24 Now, when we start talking about that
25 first factor, which is the most complex one,

1 determining whether or not it's in the public interest,
2 we look to guidance from Section 6.04 which is called
3 Issuance of License. And it provides that the
4 Commission may issue a license if they determine that
5 it's going to be in the public interest, it complies
6 with all zoning laws, it complies with the act and the
7 rules, and that they find -- that the Commission finds
8 by clear and convincing evidence that the applicant
9 will comply with all the criminal laws of the state.

10 In determining whether to grant or deny
11 an application, it identifies 11 factors for you to
12 consider. These are optional. You may consider these
13 factors. The applicant's financial stability, their
14 resources for supplementing purses, the location of the
15 racetrack and its effect on traffic flow, the
16 facilities for the patrons and the occupational
17 licensees and the facilities for the race animals, the
18 availability of support services, including emergency
19 services, the experience of the applicant's employees,
20 the potential for conflict with other race meetings,
21 the anticipated effect of a race meeting on the
22 greyhound and horse breeding industry, and finally the
23 effect of the race meeting on the state and local
24 economy. Those are all statutorily designated factors
25 that the Commission may consider.

1 There also are a number of rules that the
2 Commission has adopted in Chapter 309 that are fairly
3 specific and the Commission will -- or the staff will
4 prepare a report that reviews all of these rules and
5 how the application addresses them. These are things
6 such as restrooms, the office space for the Commission
7 and the DPS, the parking, communication systems, public
8 address, lighting, stable area, fire prevention, tote
9 contracts, org charts, the track length, track width,
10 elevation of the track, drainage, rails, maintenance,
11 track access path. You get the idea. There's a great
12 deal of very technical information that we will have to
13 review and prepare a report for you to address those
14 things.

15 In doing that, what we'll be looking at
16 is we'll be looking at the business information, their
17 business plan, their maps, the legal description.
18 We'll be looking at the uses of the land within a half
19 mile of the site, the availability of utilities. We're
20 going to require them to provide a traffic study,
21 drawings.

22 There's quite a bit of work that
23 Mr. Jackson does in reviewing their finances and their
24 pari-mutuel projections and their operating costs,
25 their handle projections and their income and expense,

1 so that we'll know whether or not they're going to make
2 or lose money and whether they have the financial
3 wherewithal to pull that off.

4 We'll also look to make sure that the
5 people who are being proposed to operate the track are
6 licensed, that they have good reputations, that they
7 have the experience and skill to do that. And if there
8 are people who have not had a recent background check
9 who are going to be operating that track, we'll also be
10 asking for the assistance of the Department of Public
11 Safety in conducting background checks on those
12 people.

13 We'll also look at economic impact on the
14 greyhound industry or the horse industry as well as the
15 local economic conditions.

16 So those are the types of factors that
17 we'll be looking at and preparing for you to review
18 when we bring one of these to you for your
19 consideration.

20 That concludes my report. If you have
21 any questions, I'd be happy to try and answer them.

22 CHAIRMAN SCHMIDT: Thank you,
23 Mr. Fenner.

24 Again, we're not bringing this up today.
25 We did want to lay out the information so we could

1 consider it if we need to address these issues at the
2 next several meetings.

3 Any questions of Mr. Fenner?

4 I still may call on you later on, Mark.

5 We do have one public comment.

6 Ms. Janessa Glenn?

7 MS. GLENN: I'm fine. Thank you. I
8 don't need to make a comment. Thank you for the
9 opportunity.

10 CHAIRMAN SCHMIDT: Any additional
11 comment?

12 Any additional questions or concerns by
13 any of the Commissioners?

14 Okay. We'll move to the next item then.
15 The next item is Item B, a request by Valle de los
16 Tesoros for approval of a temporary location under
17 Texas Racing Act 6.15. Again, this matter was
18 addressed in our meeting during the summer. Mr. Moltz
19 did request that we act on this expeditiously and so
20 we'd like to address this matter today.

21 Mr. Fenner, could you revisit with us and
22 update us and lay out this item?

23 MR. FENNER: Yes, sir, Mr. Chairman.

24 In your materials, on page IV-B-1, you'll
25 find the staff report on the proposal by Valle de los

1 Tesoros to open a temporary location. And I've divided
2 this report into statutory requirements, additional
3 information of the type that I just described and that
4 you've seen in previous applications. I've also tried
5 to address the resolution that we discussed at the last
6 Commission meeting which was adopted in 1994 for a
7 similar situation. And then the Commission at the last
8 meeting also asked for additional information about
9 statutory history of the provisions and the impact on
10 Valley Race Park.

11 Now, the statutory requirement to
12 establish a temporary location is set out in Texas
13 Racing Act Section 6.15. It says that the Commission
14 is authorized to issue such a license as long as that
15 temporary location is in the same county and the
16 association has not yet completed its permanent
17 facility. The license is good for only two years at
18 the most or until the permanent facility is completed.
19 The applicant must pay whatever fees and bonds would be
20 required of other licensees. And it authorizes the
21 Commission to set the standards and conditions for the
22 issuance of that temporary license.

23 In respect to these requirements, the
24 Valle de los Tesoros has met those minimum
25 requirements. This proposed location is in the same

1 county as its designated location. It is a licensed
2 Class 2 horse racing association. The Commission has
3 not previously issued VDLT a license, so this is the
4 first time that the license would have been issued to
5 them. There are no fees or bonds in particular
6 required by the Commission, but they have paid all fees
7 and bonds that are required -- that have been required
8 to them and are required of other racing associations.

9 Also the lease is -- this is a leased
10 facility. DPS has done a background check on the
11 proposed lessor. He has no criminal history and is
12 qualified to hold -- to lease out the facility.

13 The management, tote, and concessions
14 contracts, they are proposing to use Texas Pari-Mutuel
15 Management which also operates the management facility
16 for Gulf Greyhound Park, Gulf Coast Racing, and
17 Gillespie County Fair. The principals of Texas
18 Pari-Mutuel Racing are licensed by the Commission and
19 are in good standing. They propose to use United Tote
20 for their totalisator services. They are also licensed
21 and in good standing with the Commission.

22 They have provided additional information
23 about their facility. This is essentially a
24 stand-alone building within a strip shopping -- strip
25 shopping center in McAllen. They propose to do it in a

1 Spanish-American kind of style. There is information
2 in here about the number of TV's and tote machines that
3 they're going to have there.

4 Their business plan proposes to provide
5 quite a bit of funds for purses and taxes and
6 accredited Texas-bred funds, but the bottom line is
7 that they don't really anticipate making any profits
8 off this. In their first full year of operations, they
9 forecast making about \$8,000 in profit.

10 Now, when I take -- or we take this
11 application by VDLT and we compare it to the resolution
12 adopted by the Commission in 1994, we find the
13 following: The first element of the resolution was to
14 identify the distance of the proposed additional
15 property from the main racetrack site. Well, this
16 facility is 10 miles due north of VDLT's primary
17 location, so it is -- it's in the same county, but it's
18 a fairly good distance. It's not across the street.

19 The unconditional committed and declared
20 use for the additional property. They're going to use
21 it for simulcasting. There's no live racing going on
22 here. There will be no track. There's nothing like
23 this. This is a simulcasting-only facility.

24 The length of time the proposed
25 additional property will be used. It can only be used

1 for up to two years. Two years or until the permanent
2 facility is constructed.

3 The next -- the fourth element is the
4 declared use -- I'm sorry. If the declared use of the
5 proposed additional property is for pari-mutuel or
6 simulcast wagering, the extent to which live races are
7 capable of being conducted at the racetrack. They are
8 not capable of conducting any live racing at the
9 racetrack. There's no facilities whatsoever there.
10 There's not even a simulcasting ability. So it's not
11 like they're trying to not conduct simulcasting at
12 their regular place and go somewhere else just because
13 they don't like the facilities that they do have. They
14 don't have facilities.

15 The degree to which the planned use of
16 the proposed operational -- additional property
17 directly relates to the ongoing operations of the
18 racetrack rather than to other business purposes.
19 Well, within their application, they do propose to
20 generate purse monies and accredited Texas-bred monies
21 and they do leave open the possibility that if they
22 construct a live racing facility that they would be
23 able to apply those at their live racing facility.

24 On the other hand, if there is no live
25 racing facility, they intend to use those -- or make

1 those funds available for use at other licensed
2 racetracks within Texas.

3 The sixth factor, the number and class of
4 other pari-mutuel racetracks located within 100 miles
5 of the additional property. That would be Valley Race
6 Park, which is 33 miles from this simulcasting facility
7 as the crow flies or 41 miles by road.

8 The seventh factor, the extent to which
9 the racetrack requesting approval of the site expansion
10 is in full compliance with Commission rules. Well,
11 there is an issue there in that Valle de los Tesoros
12 was issued six live racing dates to be conducted in
13 August of 2011 and those racing dates were not
14 conducted. So there's a potential violation there that
15 you should be aware of.

16 No. 8, the estimated increase in
17 regulatory cost to the Commission caused by an
18 expansion. If it's a simulcasting-only facility,
19 there's very little additional cost to the Commission
20 to go down there and inspect it and to approve the
21 simulcasting signals. We believe we can absorb those
22 costs within our existing budget.

23 The ninth factor, this was a statement by
24 the resolution that the Commission will not approve a
25 proposed site expansion to include property that's not

1 contiguous to the main racetrack site if the Commission
2 determines the additional property is more than five
3 miles from the boundary of the main racetrack site.

4 This facility is more than five miles from the main
5 racetrack site. It's 10 miles.

6 Finally, the 10th factor, if the
7 Commission approves a site expansion to include a
8 property that's not contiguous to the main site, they
9 will not -- the Commission will not authorize
10 pari-mutuel wagering on the noncontiguous property if
11 the Commission determines that the regular property is
12 capable of conducting simulcasting or racing. And VDLT
13 has no physical facilities at its main track at which
14 to conduct pari-mutuel wagering.

15 The last two things to address are the
16 legislative history. The provision of the act that
17 could facilitate this happening is the definition of
18 race. Race includes both the audio and visual signal
19 of a race being conducted somewhere else. With that
20 broad definition, you can interpret this to include a
21 simulcasting facility, a temporary facility for
22 simulcasting only.

23 However, this language was not in the
24 original sunset bill in 1995. Instead, it came up in a
25 committee substitute before the State Affairs Committee

1 and it was within the committee substitute itself. It
2 wasn't added as an amendment during the meeting. So
3 it's very difficult to understand exactly why they put
4 this in there. It may have had absolutely nothing to
5 do with simulcasting at a temporary location.

6 And in fact, I think that there is
7 this -- the fact that in that same committee substitute
8 they envisioned a simulcasting facility pilot program,
9 which somewhat ironically would have been in the same
10 counties as what this proposed location is in, tells me
11 that the author wasn't thinking in terms of a change in
12 the definition was going to, you know, ipso facto
13 authorize simulcasting at a temporary location.
14 Otherwise, there wouldn't have been any need for a
15 simulcasting facility pilot program.

16 Now, that sunset bill died. The version
17 of the definition of a race that first arose in that
18 committee substitute appeared in all the subsequent
19 sunset bills which came in the following session. But
20 the simulcasting facility pilot program never arose
21 again.

22 And that's all the record was able to
23 show me about the legislative history of the definition
24 of race and its relation to simulcasting at a temporary
25 location.

1 The potential for conflict with Valley
2 Race Park. Valley Race Park has submitted an economic
3 impact study that they had provided in connection with
4 the original licensure of Valle de los Tesoros.
5 According to Valley Race Park, if this facility is
6 opened, it could have a substantial detrimental effect
7 on their business, including the potential for closing
8 their business down.

9 I've looked at the more recent numbers;
10 and frankly, the numbers that Valley Race Park is
11 creating in terms of handle, purses, accredited
12 Texas-bred monies, and all the rest of it is roughly
13 equivalent to the numbers that are being projected by
14 opening up this simulcasting facility. It is -- Valley
15 did a little over 13 million dollars in handle. That's
16 exactly what the handle is projected to be at the
17 temporary location for Valle de los Tesoros. So there
18 is a potential for impact, a substantial impact, on
19 Valley Race Park.

20 That concludes my summary of the staff
21 report and I'd be happy to answer any questions that I
22 can.

23 CHAIRMAN SCHMIDT: Mr. Fenner, thank you
24 very much for laying the issue out for us.

25 Any questions of Mr. Fenner?

1 MR. FENNER: Yes, sir.

2 CHAIRMAN SCHMIDT: Commissioner
3 Polunsky?

4 MR. POLUNSKY: Mr. Fenner, so I
5 understand it, you're stating that one of the
6 requirements is that -- for a temporary license, is
7 that they be limited to two years or until such time as
8 their permanent track is constructed. Did I understand
9 that correctly?

10 MR. FENNER: Yes, sir, whichever is
11 less.

12 MR. POLUNSKY: But are there plans to
13 construct a permanent track there?

14 MR. FENNER: No, sir. They have
15 submitted no plans, no documentations, any evidence
16 that it is their intent to build a permanent facility
17 within the next two years.

18 MR. POLUNSKY: So I assume theoretically
19 this temporary facility -- could it continue and
20 function ad infinitum?

21 MR. FENNER: Not without legislative
22 change, sir. At the end of two years of operations, we
23 would have no option but to not approve any more
24 simulcasting at that facility.

25 MR. POLUNSKY: Okay.

1 CHAIRMAN SCHMIDT: Any other questions of
2 Mr. Fenner?

3 We do have some requests for public
4 comment. Mr. Hurwitz, do you wish to testify? Shawn?

5 MR. HURWITZ: Thank you, Commissioners.
6 Congratulations on your chairmanship.

7 CHAIRMAN SCHMIDT: Thank you.

8 MR. HURWITZ: My name is Shawn Hurwitz.
9 I'm the chairman of Valley Race Park, which is not very
10 far from the proposed new temporary facility, Valle de
11 los Tesoros. And we feel like we would be
12 significantly impacted if this were to be approved.
13 And as you all know, we are -- excuse me. We are a
14 permanent facility that runs live racing and has run
15 live racing for a number of years.

16 Our concerns are several. First of all,
17 this would -- this would basically be a very unequal
18 playing field for us. We operate on 90 acres because
19 we have a track, we have a parking lot, we've got a
20 large building that's made for running live racing. So
21 we have high electric bills. We've got many
22 employees. You know, we have all the things that you
23 would have to run live racing with. And this would be
24 a facility that would basically be a temporary facility
25 in a strip mall in a high traffic area which would

1 siphon off a lot of the business that comes to us. And
2 as Mr. Fenner noted, it would have a maximum of a
3 two-year life.

4 And so we would not be able to operate
5 with the same amenities that they would have, you know,
6 i.e., close parking, you know, how close they are to
7 the folks' homes and businesses, the customers' homes
8 and businesses, et cetera. So this would be a real
9 problem for us and would take a lot of business away
10 from us.

11 Given the location which they're
12 proposing, they're within easy driving distance of
13 nearly two-thirds of Valley's gaming population. So we
14 estimate that our handle would drop somewhere in the
15 neighborhood of 40 to 50 percent if this were to be
16 approved. Our handle would drop by 40 to 50 percent if
17 this would be approved.

18 Currently we're operating at about a
19 break-even to a negative one or two hundred thousand
20 dollars in operating deficit. If our handle were to
21 drop in half, that negative would go to nearly three
22 quarters of a million dollars a year, something that
23 would not be tolerable for us. We could not -- we
24 cannot operate in that type of environment.

25 So therefore, many of the new dollars

1 that would be coming in supposedly to help purses
2 would, in fact, not be new dollars at all. It would be
3 dollars taken away from our facility, which is a
4 permanent one, moved over to a temporary facility; and
5 likely in two years South Texas would have no
6 facilities. And, you know, that's obviously something
7 that we're not much in favor of.

8 So what will all this achieve at the end
9 of the day? We would likely be faced with laying off
10 our 22 full-time and part-time employees. We would
11 probably close. And the -- if you take Texas' 2010
12 purse numbers, which were 23 million dollars, we would
13 wind up closing a permanent facility, opening a
14 temporary facility, and then closing the temporary
15 facility two years later. We would go from 23 million
16 dollars in purses in the state to 23 million dollars --
17 \$23,600,000 in purses.

18 So that's what the trade-off would be.
19 It seems to me to not be a very good trade-off for the
20 State of Texas. It certainly would not be good for us
21 and I don't think something that the Commission should
22 approve at this time.

23 Thank you. And I'll be happy to answer
24 questions.

25 CHAIRMAN SCHMIDT: Any questions of

1 Mr. Hurwitz?

2 Thank you very much, sir.

3 COMMISSIONER EDERER: I have one
4 question.

5 CHAIRMAN SCHMIDT: Mr. Ederer?

6 COMMISSIONER EDERER: You stated that it
7 would not be tolerable. In other words, you're going
8 to shut down if they open up.

9 MR. HURWITZ: Well, yes.

10 COMMISSIONER EDERER: Probably.

11 MR. HURWITZ: Probably.

12 COMMISSIONER EDERER: Because if you lose
13 40 to 50 percent of your handle, you cannot survive.

14 MR. HURWITZ: Correct.

15 COMMISSIONER EDERER: Thank you.

16 MR. HURWITZ: Yes.

17 CHAIRMAN SCHMIDT: Thank you.

18 MR. HURWITZ: Thank you very much. And
19 I'll be here to answer any more questions should you
20 have any.

21 CHAIRMAN SCHMIDT: Marnie McCormick?

22 MS. McCORMICK: Good morning,
23 Commissioners. I'm Marnie McCormick and I'm here on
24 behalf of Penn National Gaming.

25 As you probably recall, Penn National was

1 here before you mere months ago asking for your
2 permission to invest in the Texas racing industry. And
3 after receiving your approval, Penn National bought a
4 50 percent interest in three Texas tracks, one of which
5 is Valley Race Park which Mr. Hurwitz just spoke with
6 you about.

7 And I'm just here to echo his comments
8 and point out that as the documentation in your -- that
9 was submitted by Andrea Young and also Mr. Hurwitz's
10 comments reflect, the Valle de los Tesoros simulcast
11 facility will threaten the continuing viability of
12 Valley Race Park. It won't result in a net long-term
13 benefit to the local economy and it won't even result
14 in a significant benefit to the industry on a temporary
15 basis.

16 When you consider the amount -- the
17 number of purse dollars that are projected to be added
18 by the new temporary facility, it's not enough to
19 justify putting out of business a permanent facility
20 two years from now. And for those reasons, Penn
21 National respectfully urges the Commission to deny the
22 application for the proposed temporary facility.

23 If you don't have any questions, thanks.

24 CHAIRMAN SCHMIDT: Thank you.

25 Any questions? Questions?

1 Thank you very much, ma'am.

2 I think Marsha Rountree has indicated, as
3 a representative of the Texas Horsemen's Partnership,
4 she does not plan to testify, but she did want to for
5 the record endorse or support the proposed motion.
6 Janessa Glenn also is available to speak for -- in
7 favor of the request by Valle de los Tesoros, but she
8 will not testify. Sally Briggs does not wish to
9 testify but will also -- Ms. Glenn, would you like to
10 testify? Thank you.

11 MS. GLENN: Good morning, Commissioners.
12 Just briefly, I wanted to address the comments that
13 were just made, the public comments that were made.

14 I would first point out that Mr. Fenner
15 went over the statutory criteria for granting an
16 application for temporary facilities of this sort and
17 nowhere in that statutory criteria is there a
18 consideration of impact on other existing racetracks.
19 And so that is sort of an extra item that came in due
20 to Valley sending in documentation that they had
21 actually already sent in, as is indicated in
22 Mr. Fenner's report, several years ago when this
23 application to VDLT was first granted several years
24 ago. It's just a repeat of the same information that
25 was already provided.

1 other of the criteria that Mark set forth that anyone
2 is having concerns about, any of the other comments
3 that he made that is causing you some concern about
4 whether or not to grant the application, I'd be happy
5 to address those.

6 CHAIRMAN SCHMIDT: Any questions by any
7 of the Commissioners of Ms. Glenn?

8 COMMISSIONER EDERER: Are there any plans
9 to build a racetrack?

10 MS. GLENN: If you -- in our proposal, in
11 the actual application, there is an executive summary
12 that explains moving forward with the racetrack. There
13 is also an additional document that we turned in later
14 at the request of the staff that talked specifically to
15 what the overall goal was, the long-term plan to build
16 the racetrack.

17 And I think Mr. LaMantia could speak more
18 specifically about that, but the executive summary sets
19 out that this is one step in the process; that in order
20 to eventually get to the point where you can build a
21 successful racetrack in the financial market that we're
22 in now, it's got to be a process or at least it's much
23 better served if it's a process. And Step 1 in that
24 process is the building of the purse monies, which is
25 what this proposal is about, a new proposal to try to

1 make a long-term goal happen in an effective and
2 economical way.

3 COMMISSIONER EDERER: So there are no
4 plans.

5 MS. GLENN: Well, I mean, there's -- the
6 whole application has full plans of what the racetrack
7 would look like, where it's going to be built, the
8 architectural plans. If that's what you're speaking
9 to, the application includes all of that.

10 COMMISSIONER EDERER: You say it's a
11 long-term goal. How long is this term?

12 MS. GLENN: Well, obviously it can't --
13 we can't possibly go more than two years at the
14 temporary location without a change in legislative --
15 in the Legislature on that rule. So obviously it has
16 to begin to build within that two -- after that
17 two-year period.

18 COMMISSIONER EDERER: After that two-year
19 period?

20 MS. GLENN: I'm not positive when the
21 actual -- how the money will work and how they'll
22 actually be able to build. In our progress reports in
23 the past, good Commissioners may have also seen that
24 one of the things that we have been working on was
25 getting the utilities to the facility. And that is in

1 the works to get that. And that has to happen first
2 before any building can happen. Obviously we have to
3 have water and electricity. And that's been in our
4 various progress reports as well.

5 COMMISSIONER EDERER: And how long has
6 that been in the works?

7 MS. GLENN: I would say approximately a
8 year.

9 COMMISSIONER EDERER: And it's still not
10 completed.

11 MR. LaMANTIA: Do you want me to help
12 her?

13 MS. GLENN: Mr. LaMantia probably knows
14 the more specifics of this.

15 Thanks, Greg. Come on up.

16 MR. LaMANTIA: I'll start with going
17 over -- I'll either answer your question first or go
18 over what I think this whole thing is about, whichever
19 you would rather me do.

20 As far as the racetrack, when we're going
21 to build it, we don't have a -- I can't sit here and
22 tell you it's going to be in one year, two years, three
23 years. We're working on it. We've been working on
24 utilities, getting them there. You've seen progress
25 reports. You've seen the letters from the City, all

1 those things. Obviously this is not the best time to
2 run out and build a racetrack.

3 Having said that, at the request of this
4 body, I don't know, a year, year and a half ago, the
5 industry was asked to try and come up with unique and
6 out-of-box ways to try and help the industry during
7 these catastrophic financial times and the issues that
8 are going through the industry.

9 We came forward -- VDLT came forward with
10 a plan that was new and out of the box, much like what
11 happened with the dog industry and the plan that we put
12 together for the dog industry and it worked. We
13 brought the plan forward that said let's have a
14 temporary simulcast facility in the same county. We
15 were encouraged by this group to go forward with that
16 idea.

17 We worked with the staff, putting
18 together how it would look, how the application would
19 look, both somewhat myself but mostly our attorneys and
20 counsel. We put the documentation together at the
21 request of the body. We went out and secured a lease
22 for the site and I was under the instruction that the
23 lease needed to be executed. So we now have an
24 executed lease that we are paying rent on for the last
25 several months to bring this forward. We were

1 encouraged to do this.

2 We think that in light of the fact and as
3 a point when you have a facility that I think -- and
4 I'm not an economist, but I live down there. When
5 you -- whatever you lose potentially in the simulcast
6 betting in Harlingen versus what we pick up in McAllen,
7 I think when you put the two together, it's going to be
8 a net plus. And that will go and that will help the
9 horse purses throughout the State of Texas. And that
10 will help offset, let's not forget, the million-plus
11 dollars that we're going to lose because Manor Downs
12 has closed down and not simulcasting.

13 We were encouraged to do all this stuff.
14 We did it. I think we've done and answered every
15 request from the staff's position. And we're here
16 today to see whether or not you all think it's a good
17 idea or not.

18 If you all don't think it's a good idea
19 and don't think it will help the industry, then tell me
20 no. If you think it works and it helps, then tell me
21 yes. I just want to make sure that you all know and
22 understand, from our position, we tried to do
23 everything that you asked us to do and I think we've
24 done that. So it's up to you all.

25 I'll answer any questions.

1 CHAIRMAN SCHMIDT: Any questions by any
2 Commissioners?

3 MR. LaMANTIA: Thank you all.

4 CHAIRMAN SCHMIDT: Mr. LaMantia, I just
5 had a couple of comments really. I appreciate your
6 frankness. And I did want to thank you. I'm not -- I
7 wasn't privy to those discussions where you -- but I do
8 think you did think out of the box and tried to do
9 something very positive for the industry.

10 I personally can't support this today
11 simply because of its effects on -- potential effects
12 on Valley. And quite frankly, without a track being
13 built -- and I don't think anyone in this room really
14 thinks any tracks will be built until gaming is
15 approved because it doesn't make economic sense -- I
16 think we're going down a slippery slope potentially
17 opening up 10 off-track betting facilities without
18 tracks. So I think we have both a micro and a macro
19 issue. But I did want to express my appreciation to
20 you for trying to think out of the box and help out the
21 industry because I think your intentions were truly
22 sincere and generous.

23 MR. LaMANTIA: I appreciate that.

24 CHAIRMAN SCHMIDT: Any other comments,
25 questions?

1 Okay. Thank you.

2 MR. LaMANTIA: Thank you all.

3 CHAIRMAN SCHMIDT: And then I think the
4 only other person who hasn't spoken who just wanted to
5 register her feelings against this but will not be
6 speaking is Diane Whiteley with the Texas Greyhound
7 Association.

8 I saw Ms. Whiteley walk in. It is a
9 pleasure to see you here. We hope to see you at many
10 more meetings. Thank you very much for your input.

11 Any further discussion by the
12 Commission? Does anyone have any comments at all?

13 I'd certainly like to entertain a motion
14 then. Is there a motion?

15 COMMISSIONER EDERER: So move.

16 CHAIRMAN SCHMIDT: A motion to --

17 COMMISSIONER EDERER: Deny.

18 CHAIRMAN SCHMIDT: -- deny Valle de los
19 Tesoros' approval for a request for a temporary
20 location. A motion made by Ederer.

21 Is there a second?

22 COMMISSIONER MARTIN: Second.

23 CHAIRMAN SCHMIDT: Seconded by Martin.

24 All those in favor of denying please say
25 aye.

1 COMMISSIONERS: Aye.

2 CHAIRMAN SCHMIDT: Anyone opposed to
3 deny?

4 Okay. It is denied.

5 The next item is the allocation of live
6 race dates for greyhound racetracks, another difficult
7 issue.

8 Sammy, have you been able to work it out
9 for us?

10 MR. JACKSON: I believe we have gotten
11 there.

12 CHAIRMAN SCHMIDT: Okay.

13 MR. JACKSON: Would you prefer an update
14 on the race date committee meeting first and then going
15 into the race dates?

16 CHAIRMAN SCHMIDT: You can just lay the
17 item out for us and bring us up to date. Okay?

18 MR. JACKSON: Sure.

19 Commissioners, on page IV-C-5 through
20 IV-C-26 of your agenda packet, you will find the 2012
21 and 2013 greyhound race date applications that have
22 been submitted for consideration. A cover memorandum
23 explaining the application can be found on pages IV-C-1
24 and IV-C-2. And additionally a greyhound race date
25 calendar for both 2012 and 2013 can be found on pages

1 IV-C-3 and IV-C-4 respectively.

2 If the Commission approves the 2012 race
3 date requests, the 2012 greyhound calendar will have
4 156 matinee performances and 153 evening performances,
5 for a total of 309 live performances, all being
6 conducted at Gulf Greyhound Park.

7 If the Commission approves the 2013 race
8 date requests, the 2013 calendar will have 10 evening
9 performances in the first eight months of 2013, with
10 five of those performances being conducted at Gulf
11 Coast Racing and five performances being conducted at
12 Valley Race Park.

13 And with that, I'll answer any questions
14 or lead way into the individual racetracks coming up
15 and discussing their individual requests.

16 CHAIRMAN SCHMIDT: Any questions of
17 Mr. Jackson?

18 Okay. We do have some public testimony.
19 Diane Whiteley?

20 MS. WHITELEY: Good morning,
21 Commissioners. I'm Diane Whiteley, executive director
22 of the Texas Greyhound Association. I was absent,
23 unfortunately, during some of these negotiations
24 earlier in the year on the race dates, but very capably
25 handled by our president of our organization.

1 We are in support of the race date
2 calendar. We would like to see Valley and Corpus
3 Christi run more days and we will be trying to figure
4 out ways to encourage them in the future to run more
5 live days. But we really appreciate Gulf Greyhound
6 Park continuing with its 2011 schedule. It gives us a
7 good opportunity. And with the simulcast money from
8 Corpus and Valley, we've been able to hold our own on
9 breedings. So we are in support of the race dates.

10 CHAIRMAN SCHMIDT: Great. Thank you very
11 much.

12 Any questions? Okay.

13 Also in support in the race dates but not
14 testifying is Sally Briggs. And also available to
15 testify in support of the race dates is Ms. Glenn.

16 Any further public comment?

17 Any discussion by the Commission?

18 It seems to have been worked out. Nice
19 job, Sammy.

20 I'd certainly entertain a motion to
21 approve the live race dates as requested by Gulf
22 Greyhound, Gulf Coast Racing, and Valley Race Park.

23 COMMISSIONER WEINBERG: I make the
24 motion.

25 COMMISSIONER HICKS: Second.

1 CHAIRMAN SCHMIDT: A motion by Weinberg,
2 a second.

3 Any further discussion?

4 All those in favor?

5 COMMISSIONERS: Aye.

6 CHAIRMAN SCHMIDT: Anyone opposed?

7 Thank you.

8 Item D, live race dates for horse
9 racetracks.

10 Mr. Jackson, can you bring us up to
11 date?

12 MR. JACKSON: Yes, sir.

13 Commissioners, at your April 1st, 2011
14 meeting, the Commission designated an application
15 period to accept race date applications for calendar
16 year 2012 and the first eight months of 2013.
17 Additionally staff was instructed to prepare for race
18 date committee meetings to facilitate race date
19 discussions. There was one race date committee meeting
20 held in August at Retama Park.

21 Commissioners, on pages IV-D-6 through
22 IV-D-84 of your agenda packet, you will find the 2012
23 and 2013 horse race date applications that have been
24 submitted for consideration. Additionally a cover
25 memorandum explaining the applications can be found on

1 pages IV-D-1 through IV-D-3. As well as race date
2 calendars for both 2012 and 2013 can be found on pages
3 IV-D-4 and IV-D-5 respectively.

4 If the Commission approves the 2012 race
5 date requests, the 2012 horse calendar will have 110
6 Thoroughbred race days, 79 Quarter Horse race days, and
7 34 mixed race days, for a total of 223 live race days.

8 If the Commission approves the 2013 race
9 date requests, the 2013 calendar will have 83
10 Thoroughbred race days, six Quarter Horse race days,
11 and eight mixed race days, for a total of 97 race days
12 in the first eight months of 2013.

13 If you have any questions, I'll be more
14 than happy to answer them.

15 CHAIRMAN SCHMIDT: Any questions of
16 Mr. Jackson?

17 Okay. I have some representatives from
18 the racetracks. Mr. Johnston, would you like to speak,
19 representing Sam Houston Race Park?

20 MR. JOHNSTON: I'm Eric Johnston,
21 vice-president of racing for Sam Houston Race Park. I
22 just wanted to briefly outline what we are attempting
23 to do going forward with our application.

24 Our original application filed back in
25 July requested for 31 days of Thoroughbred races

1 starting January 20th and ending on March 12th and 24
2 days of Quarter Horse racing starting on March 22nd and
3 ending on May 13th. Since that time, about two weeks
4 ago we have filed an amended application which adds
5 three additional days of Quarter Horse racing which
6 would close that meet on May 19th. And we have also
7 asked for race dates in calendar year 2013 -- or 2013
8 for a similar meet as we are holding this year for the
9 Thoroughbreds.

10 The reason for this amendment and the
11 request for 2013 is it gives us an opportunity to move
12 forward with our plans and we're not waiting until
13 September or October to start promoting the meet. It's
14 strictly a strategic thing for us so that we can
15 promote the meet and hopefully grow it and continue to
16 move forward.

17 If anybody has any questions, I'll be
18 more than happy to answer them.

19 CHAIRMAN SCHMIDT: Any questions by the
20 Commissioners?

21 Thank you very much.

22 MR. JOHNSTON: Thank you.

23 CHAIRMAN SCHMIDT: Next scheduled to
24 speak is Drew Shubeck. Mr. Shubeck with Lone Star?

25 MR. SHUBECK: Commissioners, Chairman,

1 you're in receipt of our dates request for 2012 and
2 2013. I think you're going to find that it's a similar
3 pattern as to what we've done in the last few years.

4 For 2012 we're asking for 53 Thoroughbred
5 days and for 26 Quarter Horse dates. We had the
6 meeting at Retama Park on August 3rd where we were able
7 to express our desire for race dates publicly. We
8 received some feedback from the horsemen that they were
9 asking us to add maybe four more race dates.

10 We went back and studied that request and
11 we find at this time we cannot amend our request to add
12 those days. And quite frankly, it's just the supply of
13 purse money. We're still suffering from declines,
14 particularly from the competition from out-of-state
15 ADW's. Because of the sunset bill that went into
16 effect September 1st, we were forced to amend our
17 simulcast contracts with ADW's so they couldn't take
18 our signal unless they agreed not to accept wagers on
19 any signal from the State of Texas.

20 By adding that language, now the ADW's
21 aren't even participating at all with us. They don't
22 take our signal at all. So we're looking for help from
23 the Racing Commission and from the AG's office to help
24 us with this ADW problem that we continue to have here
25 in Texas.

1 So right now, as I said before, we'd like
2 to stick with our original application to ask for 53
3 Thoroughbred days and for 26 Quarter Horse days for
4 2012 and we did apply for Thoroughbred days for '13 --
5 for 2013, rather, and it's a similar meet.

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

8 CHAIRMAN SCHMIDT: Any questions of
9 Mr. Shubeck?

10 Thank you very much, Drew.

11 COMMISSIONER EDERER: From what you're
12 saying, there is a possibility that you will come back
13 and ask for more race dates. Is that correct?

14 MR. SHUBECK: No, that's not correct. At
15 this time there is not the purse --

16 COMMISSIONER EDERER: I'm not saying at
17 this time. I'm saying in the future that's a
18 possibility.

19 MR. SHUBECK: In the future that is a
20 possibility.

21 COMMISSIONER EDERER: Depending on what?

22 MR. SHUBECK: Well, I would say that
23 right now we're suffering about a 20 percent
24 in-the-building decline on simulcast-in. We're hopeful
25 that when we reopen the simulcast pavilion -- we're

1 spending about two and a half million dollars
2 renovating that facility right now. So when that
3 facility opens, we hope the numbers will normalize in
4 the building, that we'll get more customer appreciation
5 of our facility once that reopens, and then if we get
6 some cooperation by shutting down these out-of-state
7 ADW's from poaching our customers that we see more
8 customers return to the building from that action as
9 well.

10 If both of those things are successful, I
11 think we could see a rise in simulcast-in handle and
12 that would give us more purse supply and we'd like to
13 run more dates then.

14 COMMISSIONER EDERER: We look forward to
15 you coming back and asking for more dates.

16 MR. SHUBECK: We look forward to the
17 help.

18 CHAIRMAN SCHMIDT: Any further
19 questions?

20 Thank you, Drew --

21 MR. SHUBECK: Thank you.

22 CHAIRMAN SCHMIDT: -- very much.

23 Next speaking in favor is Bryan Brown
24 with Retama. Mr. Brown?

25 MR. BROWN: Good morning, Commissioners.

1 Bryan Brown with Retama Park.

2 We have applied for a 20-day Quarter
3 Horse meet beginning June 8th, which is the Belmont
4 weekend, and extending through August 11th and then a
5 26-day Thoroughbred meet starting October 5th and
6 extending through December 29th. That's an increase in
7 what we were granted last year in terms of race dates.

8 With the request that we have coming up
9 in another agenda item, it might net out to be a little
10 bit of a decrease, but we believe it's a much better
11 format running a straight Quarter Horse meet in the
12 summer which takes advantage of the potential live
13 crowds. As you all are aware, we had excellent live
14 crowds during our Quarter Horse meet this past summer.

15 And then the Thoroughbred meet moving
16 later into the fall than what we've typically done
17 helps us take advantage of better outbound signal
18 revenues by virtue of fewer tracks around the country
19 running at the same time we are and therefore fewer
20 tracks competing with us for the simulcast patron
21 around the country.

22 So we're excited about the new schedule.
23 We've met several times with horsemen, horsemen
24 groups. They seem to be very excited on both sides,
25 both the Quarter Horse and the Thoroughbred, with the

1 schedule. And together with our potential to extend
2 our current meet has created, I think, a lot of good
3 positive buzz on the backside at Retama right now.

4 One thing that I'll both point out in
5 this agenda item and the escrowed purse account agenda
6 item, extending out or going to 20 Quarter Horse days
7 and starting in June will require that we take a little
8 bit more money from our escrowed purse account
9 distribution and move that into our purse account for
10 Quarter Horses at least through the end of the Quarter
11 Horse meet so that we get up to the level of Quarter
12 Horse purses that we'd like to have.

13 We're in current negotiations with the
14 Texas HBPA and the Texas Thoroughbred HBPA as well as
15 the breed associations to accomplish that and everyone
16 seems to want to get to percentages that allow us to
17 have ample purses for our Quarter Horse meet. We will
18 have a good deal of purse money in the Thoroughbred
19 meet by virtue of moving the meet out later in the year
20 and Thoroughbred purses should not be an issue in
21 2012.

22 I'd be happy to answer any questions that
23 you have.

24 CHAIRMAN SCHMIDT: Any additional
25 questions of Mr. Brown?

1 MR. BROWN: Thank you very much.

2 CHAIRMAN SCHMIDT: Thank you, Bryan.

3 Mr. Ederer, you did some heavy lifting
4 this summer, horse race dates and finance committee,
5 and I'm very appreciative. I know the Commission is.
6 Do you have any comments, insights?

7 COMMISSIONER EDERER: We had two
8 meetings. And I believe as far as the race dates are
9 concerned -- excuse me, one meeting. And as far as the
10 race dates are concerned, I think the horsemen as well
11 as the tracks both had an opportunity to fully explain
12 and explore what both desired. And the tracks have
13 stepped up considerably to assist. Retama in
14 particular, to narrow the gap where there was no
15 racing, they narrowed it from 12 to nine weeks in '12
16 and they narrowed it down to just two weeks in '13. So
17 that gap is -- it's very important for the horsemen
18 to -- and they expressed that, of course, at the
19 meeting. And like I said, the tracks all have stepped
20 up and so I think it's very good for racing.

21 CHAIRMAN SCHMIDT: It keeps your horses
22 in training. Hard to do. Yeah. Thank you.

23 Any other public comment?

24 Any other Commission comment?

25 I'd certainly like to entertain a motion

1 to approve the race dates as proposed.

2 COMMISSIONER EDERER: So move.

3 CHAIRMAN SCHMIDT: Moved by Ederer.

4 COMMISSIONER MARTIN: Second.

5 CHAIRMAN SCHMIDT: Seconded by Martin.

6 Any other discussion?

7 I'll call it to a vote. All those in

8 favor?

9 COMMISSIONERS: Aye.

10 CHAIRMAN SCHMIDT: Anyone opposed?

11 Okay. That's approved.

12 Item E, request by Retama Park to amend

13 its 2011 live racing schedule. Mr. Brown?

14 MR. BROWN: Thank you, Mr. Chairman.

15 We have made a request to delete the

16 remaining Thursdays of our current Thoroughbred meet

17 and add three weeks to the meet, which would have our

18 meet ending on Breeders' Cup Saturday. That would give

19 us a net of an extra two additional days plus put --

20 place those days on better times, the Fridays and

21 Saturdays, when the crowds are a little bit better and

22 outbound signal revenue is a little bit better as

23 well.

24 The horsemen seem elated with this

25 change. As Dr. Schmidt was indicating with regard

1 to -- or excuse me, Commissioner Ederer, with regard to
2 the 2012 dates, this also places our meet closer to the
3 beginning -- our ending closer to the beginning of the
4 Sam Houston meet and the horsemen appreciate that as
5 well.

6 I'd be happy to answer any questions that
7 you have.

8 CHAIRMAN SCHMIDT: Any questions of
9 Mr. Brown?

10 All right. Any insights, Mr. Jackson,
11 you need to add?

12 MR. JACKSON: I just would say that on
13 page IV-E-3 of your agenda packet, we prepared a
14 revised 2011 granted horse race date calendar showing
15 what the addition of the dates would -- how it would
16 appear on the calendar for your benefit.

17 If you have any questions, I'd be happy
18 to answer them.

19 CHAIRMAN SCHMIDT: Thank you.

20 Any additional public comment?

21 It should be noted that Ms. Rountree with
22 the Texas Horsemen's Partnership is in favor. She's
23 registered as in favor and will testify if needed.

24 Any further discussion by the
25 Commission?

1 I'd certainly entertain a motion to
2 approve Retama Park's request to amend its 2011 live
3 racing schedule.

4 COMMISSIONER MARTIN: A motion to
5 approve.

6 CHAIRMAN SCHMIDT: Motion by Martin.

7 COMMISSIONER WEINBERG: Second.

8 CHAIRMAN SCHMIDT: Seconded by Weinberg.

9 Any further discussion?

10 I'll call it to a vote. All those in
11 favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN SCHMIDT: Any opposed?

14 Okay. Item F, allocation of escrowed
15 purse account revenue under Commission Rule 321.509.
16 Mr. Jackson, can you bring us up to date with this?

17 MR. JACKSON: Yes, Commissioner.

18 Commissioners, at the September 2010
19 Commission meeting, this body approved an
20 industry-supported agreement that allocated escrowed
21 horse purse amongst the various racetracks and the
22 various breeds of horses. At that time the industry
23 agreement had an allocation to Manor Downs, who, when
24 that agreement was submitted, had planned to run race
25 dates in 2011.

1 After the agreement had been submitted,
2 Manor Downs withdrew their request to run live race
3 dates; and when this agenda item was approved, it was
4 recommended that the Manor Downs allocation be held
5 until the Texas Horsemen's Partnership could come back
6 before this Commission with a recommendation as to
7 where they wanted the Manor Downs money to be forwarded
8 to.

9 On March 21st, 2011, the Texas Horsemen's
10 Partnership submitted a request for consideration to
11 have the Quarter Horse portion of the escrowed horse
12 purse money being held allocated to Retama Park. The
13 request received unanimous consent from this body. And
14 the staff executed that.

15 Today in your agenda packet we have a
16 request by the Texas Horsemen's Partnership to have the
17 remaining amounts allocated to the Thoroughbred
18 association for Thoroughbred purses, the Arabian purse,
19 and the Paint horse also allocated to Retama Park for
20 it to be used as purse money there.

21 On page IV-F-1 of your agenda packet, I
22 prepared a memo explaining this as well as -- which
23 shows the reflected balances of the held money as of
24 August 31st, 2011. Currently we have \$27,491 in total
25 being held, of which 20,600 is allocated to

1 Thoroughbreds, \$3,445 is for Arabians, and the same
2 amount for Paint.

3 Staff has reviewed the request by the
4 Texas Horsemen's Partnership and we believe it complies
5 with the request of the Commission that was set forth
6 on September 10th, 2010.

7 I would also say that if this was
8 approved, this would finalize and there would be no
9 more money being held by the Commission on this item.

10 CHAIRMAN SCHMIDT: Great. Thank you very
11 much, Sammy, Mr. Jackson.

12 Bryan Brown with Retama Park speaking in
13 favor?

14 MR. BROWN: Again, Bryan Brown with
15 Retama Park.

16 We will be coming back at a later date to
17 the Commission to request approval for what I mentioned
18 earlier, which is to transfer additional amounts under
19 our purse distribution from the escrowed purse account
20 to the Quarter Horse purse account from the
21 Thoroughbred purse account. We will do that at the
22 next Commission meeting. And we're in negotiations
23 right now to get the agreement of all the parties
24 involved.

25 CHAIRMAN SCHMIDT: Any questions of

1 Mr. Brown?

2 MR. BROWN: We are in favor of approval
3 of the agreement.

4 CHAIRMAN SCHMIDT: Thank you.

5 Ms. Rountree, did you wish to speak?

6 MS. ROUNTREE: I don't need to. Just our
7 organization initiated the request, so we're obviously
8 for approval.

9 CHAIRMAN SCHMIDT: Great.

10 Any additional public comment?

11 Questions or concerns by the Commission?

12 I'd certainly entertain a motion to
13 approve the Texas Horsemen's Partnership's request to
14 allocate the Manor Downs Thoroughbred, Paint, and
15 Arabian purse funds to Retama Park.

16 COMMISSIONER HICKS: I'll make the
17 motion.

18 CHAIRMAN SCHMIDT: A motion made by
19 Commissioner Hicks.

20 COMMISSIONER HAYWOOD: Second.

21 CHAIRMAN SCHMIDT: Seconded by Haywood.

22 Any further discussion?

23 I'll call for a vote. All those in
24 favor?

25 COMMISSIONERS: Aye.

1 CHAIRMAN SCHMIDT: Anyone opposed?

2 Okay. That's been approved.

3 Item G, a request by Laredo Downs for
4 approval of a change in ownership of less than one
5 percent.

6 Mr. Gougler, can you lay the issue out
7 for us, please? Thank you.

8 MR. GOUGLER: Yes, sir.

9 Commissioners, on June 16, 2011, the
10 Commission received a request from Laredo Downs to
11 approve a slightly more than two-tenths of one percent
12 ownership change from Ted Abrams to Muy Buena Suerte,
13 Limited. Mr. Abrams last underwent a background check
14 before the license was granted in 2007. DPS refreshed
15 its background check of Muy Buena Suerte in April of
16 2009. Upon consultation with DPS, it was determined we
17 didn't need any additional background checks. And it's
18 recommended that this ownership transfer be approved.

19 CHAIRMAN SCHMIDT: Thank you.

20 Any questions?

21 Ms. Glenn, are you still in the
22 audience? Yes.

23 MS. GLENN: Mainly I just wanted to be
24 available for any questions that you all may have about
25 this ownership change. You'll see in your packet at

1 Section IV-G-2 and IV-G-3 that it is a point -- a
2 0.2011 percent ownership change. It's a very small
3 ownership change that just takes place due to the
4 ongoing business of this entity. It's not a sale or
5 anything like that. It's just their ongoing
6 partnership agreement business.

7 If you have any questions --

8 CHAIRMAN SCHMIDT: Any questions of
9 Ms. Glenn?

10 Okay. Thank you very much.

11 MS. GLENN: Thank you.

12 CHAIRMAN SCHMIDT: Any other additional
13 public comment?

14 Any comment by the Commissioners?

15 I'd certainly entertain a motion to
16 approve the change of less than one percent ownership
17 from Ted Abrams to Muy Buena Suerte, Limited.

18 A motion by Polunsky.

19 COMMISSIONER MARTIN: Second.

20 CHAIRMAN SCHMIDT: Seconded by Martin.

21 Any other comment?

22 I'll call it to a vote. All those in
23 favor?

24 COMMISSIONERS: Aye.

25 CHAIRMAN SCHMIDT: Anyone opposed?

1 Okay. Item H, progress reports by
2 inactive racetrack license holders on preparations to
3 begin live racing. Mr. Brown with the Austin Jockey
4 Club?

5 MR. BROWN: Bryan Brown with the Austin
6 Jockey Club.

7 I need to give an update on a couple of
8 fronts, one on the litigation that involves the Austin
9 Jockey Club and Dallas City Limits. There is a case on
10 appeal in Dallas that has been appealed by Dallas City
11 Limits that we believe came out favorably on behalf of
12 the Austin Jockey Club. That appeal is going to take
13 the form of mediation on Friday, the 30th of
14 September.

15 There was another action filed by Dallas
16 City Limits in Dallas attempting to get an injunction
17 preventing Austin Jockey Club from conducting business
18 with the KTAGS group which we have contracted with to
19 purchase our Longhorn Downs, Inc. entity which holds
20 the license. So next week will be a busy week with a
21 hearing on Tuesday on the new cause of action and then
22 a mediation on Friday, the 30th.

23 Meanwhile, with regards to the property
24 in Creedmoor, we have engaged an attorney to work with
25 the City of Creedmoor to draft an annexation ordinance

1 that would annex the property into the City of
2 Creedmoor. Both the City and the partners want that to
3 take place and so those discussions have been going on
4 pretty well.

5 I'd be happy to answer any questions that
6 you have.

7 CHAIRMAN SCHMIDT: Any questions of
8 Mr. Brown?

9 MR. BROWN: Thank you.

10 CHAIRMAN SCHMIDT: I have one question.

11 MR. BROWN: Yes, sir.

12 CHAIRMAN SCHMIDT: Just a general
13 nature. As you're planning the track in the future, is
14 there an economic model out there now that would
15 indicate that your track would be profitable without
16 legislative approval of gaming?

17 MR. BROWN: I know everybody says we're
18 crazy, but we believe there is. We believe that the
19 track can make money, not a lot, not a huge return, but
20 it can make money. And our partners are committed to
21 moving forward with it.

22 CHAIRMAN SCHMIDT: Okay. Thank you.

23 Any other questions of Mr. Brown?

24 Okay. Saddle Brook Park. Mr. Alexander
25 is not here. I believe he's had recent surgery. We

1 certainly wish him well.

2 Do we have a representative of Laredo
3 Downs and Valle de los Tesoros? Ms. Glenn?

4 MS. GLENN: I'll step up for that. No. 3
5 is VDLT, so I'll do that one first. That was the
6 earlier agenda item that we all already visited about
7 for the simulcast temporary facilities and so I think
8 the Commission is pretty well versed on where that is.
9 That was denied today and so we're going to be moving
10 forward with alternate plans. If there's any questions
11 on that one.

12 Okay. If not, I'll move on to No. 4,
13 which is the Laredo Downs progress report. You'll see
14 in your packet our progress report indicates that we
15 have pending before the Commission, it was with the
16 staff, an application for a change of location. And
17 you'll recall from earlier today that Mr. Fenner gave a
18 presentation about the various criteria, statutory and
19 regulatory, that are applicable to all changes in
20 locations application and I think that will be moving
21 forward in the next several meetings.

22 Any questions on that one?

23 CHAIRMAN SCHMIDT: Any questions?

24 Thank you very much.

25 MS. GLENN: Thank you.

1 CHAIRMAN SCHMIDT: Do we have a
2 representative from Laredo Race Park to update us
3 today? I know Ms. Young is out of the country.

4 Okay. And then a report from Manor
5 Downs. Mr. Phillips, good to see you.

6 MR. PHILLIPS: I'm Howard Phillips, the
7 managing partner at Manor Downs.

8 At Manor Downs, we continue to engage in
9 dialogue with potential investors because we are
10 committed to recapitalizing this project and get it up
11 and running again. It's a fairly tough economic
12 environment, but we have some interested parties. It
13 just remains to be seen if we can work out the details
14 and bring somebody to the table.

15 CHAIRMAN SCHMIDT: Any questions of
16 Mr. Phillips?

17 MR. PHILLIPS: I'd be glad to answer any
18 questions.

19 CHAIRMAN SCHMIDT: Okay. Thank you very
20 much, sir.

21 MR. PHILLIPS: Thank you.

22 CHAIRMAN SCHMIDT: Proceedings on
23 rulemakings, rule proposals. Mr. Fenner, could you
24 update us, particularly with regard to the rule
25 regarding HB 2271?

1 MR. FENNER: Yes, sir. I'd like to walk
2 you through the various rule proposals that have been
3 through the various committees. Some of these
4 proposals have been through the committee on
5 implementing HB 2271. Some have been through the ad
6 hoc committee on finance, the safety and medication
7 committee. And then all of them have come back through
8 the rules committee before being placed on this
9 agenda.

10 The first rule that is up for your
11 consideration is a proposal to amend 301.1,
12 Definitions. This is to implement HB 2271 by modifying
13 the definition of performance to specify that a
14 greyhound performance is 15 or fewer races unless
15 approved by the executive director, also incorporates
16 the statutory definitions of active license and
17 inactive license. This one -- the staff is
18 recommending that this be published in the Texas
19 Register for public comment.

20 CHAIRMAN SCHMIDT: I was wondering if we
21 couldn't work through all the rules.

22 MR. FENNER: Yes, sir.

23 CHAIRMAN SCHMIDT: Some of them are
24 related to implementing the sunset bill, correct? B,
25 C, D --

1 MR. FENNER: Yes, sir. I'll walk you
2 right through all of them, yes, sir.

3 309.8, Racetrack License Fees, this is
4 not really about implementing 2271. This is about
5 generating adequate cash flow for the Commission to
6 continue its operations. What this rule does is it
7 eliminates the -- all the simulcasting fees, most of
8 the daily racing fees, and goes to a flat annual
9 racing -- an annual license fee for all racetracks
10 based on class and there's no distinction between
11 whether they are active or inactive other than the
12 active licenses would be able to prorate their annual
13 fee over the year versus the inactives which would make
14 a lump sum payment of their fee at the beginning of the
15 year.

16 A proposal to amend Rule 309.129,
17 Automatic Banking Machines, this is to implement HB
18 2271 by eliminating the 200 limit -- 200-dollar daily
19 limit on ATM withdrawals.

20 The proposal to amend 311.3, Information
21 for Background Investigation, has a dual purpose.
22 First is to implement 2271 by clarifying the
23 fingerprints must be submitted both for the initial
24 occupational license and for any renewals. It also
25 increases the fingerprinting fee from \$12 to \$44.20.

1 This is only required every three years and this is to
2 provide full reimbursement to the Department of Public
3 Safety for their expenses in connection with conducting
4 those background checks.

5 The proposal to amend Rule 319.335,
6 Auditing and Approval of Testing Costs, this one as
7 well as the following two are in connection with the
8 elimination of outstanding tickets as a source of
9 income to the Commission.

10 The change to 319.335 changes the
11 requirement that we audit drug testing charges. We're
12 still going to be verifying that the audit -- the drug
13 testing charges being charged to the racetracks are
14 accurate, but the term "audit" envisions a more
15 stringent review than what we intend to do in the
16 future.

17 319.336, Payment of Testing Costs, this
18 is also about eliminating the outstanding tickets as a
19 source of revenue. It eliminates the provisions
20 requiring an accounting of outstanding tickets and
21 providing for the pooling of certain drug testing
22 costs.

23 The change to 321.36, Remittance of
24 Unclaimed Outs and Vouchers, also 2271, it allows the
25 racetracks to retain the revenue from retained tickets

1 and eliminates the requirement that they pay that
2 amount to the Commission.

3 The change to 319.3, Medication
4 Restricted, is not a 2271 proposal. This is a safety
5 and medication committee proposal. What has happened
6 is the Texas owners -- Thoroughbred Owners and Breeders
7 Association which grades stakes races across the
8 country has changed their policy. They want to make
9 sure that from now on the maximum amount that can be --
10 of phenylbutazone that can be detected in blood plasma
11 or serum is at two micrograms per milliliter. The
12 current Commission rule provides for up to five
13 micrograms per milliliter. So in order to retain the
14 ability for the racetracks in Texas to conduct graded
15 stakes races, this would reduce that amount from five
16 to two.

17 Then finally, the proposal to amend Rule
18 321.407, the current policy restricts a Texas racetrack
19 from importing Standardbred or harness racing for
20 simulcasting unless there's a reciprocal meet-for-meet
21 agreement between the Standardbred track and the Texas
22 track. This proposal would bring those arrangements
23 into line with other types of simulcast wagers that are
24 conducted and eliminate that meet-for-meet
25 requirement.

1 CHAIRMAN SCHMIDT: Thank you, Mark.

2 Any questions of Mr. Fenner?

3 Commissioner O'Connell, the Commission is
4 very appreciative of the heavy lifting you did
5 converting HB 2271 into rules. Do you have any --

6 MS. O'CONNELL: Well, we're not done.
7 There's still a lot -- this was kind of the easy part.
8 There's a lot more. The heavy lifting is really still
9 to come. So I encourage the stakeholders to check on
10 when our next meeting is going to be because we started
11 discussing a number of issues which will take awhile to
12 work through and we certainly need input.

13 CHAIRMAN SCHMIDT: Thank you very much.

14 Any other comments or questions?

15 Okay. Commissioner Hicks and Ederer, a
16 difficult job with racetracks' licensing fees in this
17 environment. Very appreciative. Any comments,
18 insights, recommendations?

19 COMMISSIONER EDERER: There were two
20 meetings held and I believe everyone expressed their
21 feelings. And of course, everyone realizes that we
22 have a real problem. And I think they dealt with it
23 adequately and helped when the proposal went to the
24 rules committee and we'll go from there. I think
25 everyone cooperated very well.

1 CHAIRMAN SCHMIDT: Hard issue. Hard
2 issue.

3 Dr. Martin, are you comfortable with the
4 recommendations?

5 COMMISSIONER MARTIN: Yes, I am. I think
6 there's going to be -- like everybody here, there's
7 going to be more medication questions arise over the
8 years due to the perception of race day medications.
9 But on this particular one on bute, I would certainly
10 support that.

11 CHAIRMAN SCHMIDT: Thank you.
12 Any public comment, additional public
13 comment?

14 I'll certainly entertain a motion to
15 publish the rules listed in the agenda Items V-A
16 through V-I in the Texas Register for public comment.
17 Is there a motion to do so?

18 COMMISSIONER HAYWOOD: So move.

19 CHAIRMAN SCHMIDT: A motion made by
20 Commissioner Haywood, seconded by Commissioner Ederer.
21 Any further discussion?

22 I'll bring it to a vote. All those in
23 favor?

24 COMMISSIONERS: Aye.

25 CHAIRMAN SCHMIDT: Anyone opposed?

1 They'll be published then. Great.

2 Mr. Fenner, can you bring us up to date
3 on the rule adoptions now?

4 MR. FENNER: Yes, sir. We have four
5 proposals that have been published in the Texas
6 Register for public comment. We've received no
7 comment, written comments, in regard to any of these.

8 What the current rules provide is that a
9 patron who loses or destroys a pari-mutuel ticket or
10 voucher has no recourse for collecting on that lost or
11 destroyed ticket or voucher. But with the advent of
12 modern technology and the tracking systems that they
13 have in place, the tracks are now able to verify that a
14 lost ticket was, in fact, issued to a particular
15 patron.

16 And so what these rules changes would do
17 would allow for a racetrack to pay for a lost ticket or
18 voucher under very limited circumstances. And to do
19 that, it changes the -- it adds a definition for a
20 player tracking system. It sets out the methods by
21 which a claim for that payment must be made. And then
22 it provides that -- normally they have to keep a
23 photocopy of a cashed ticket or voucher and it says
24 that you don't have to have a photocopy of that ticket
25 or voucher if payment has been made under the process

1 for paying off a lost one.

2 Staff would recommend that these be
3 adopted.

4 CHAIRMAN SCHMIDT: Thanks, Mr. Fenner.

5 Any questions of Mr. Fenner?

6 Commissioner O'Connell, any other
7 recommendations or insights?

8 MS. O'CONNELL: No.

9 CHAIRMAN SCHMIDT: Any public comment?

10 Okay. Any discussion by the Commission?

11 Then I'd certainly entertain a motion to
12 adopt the rules listed in the agenda Items V-J through
13 M as published in the Texas Register. Motion?

14 COMMISSIONER EDERER: Make a motion that
15 we approve.

16 COMMISSIONER WEINBERG: Second.

17 CHAIRMAN SCHMIDT: Mr. Ederer. Seconded
18 by Commissioner Weinberg.

19 I'll bring it to a vote. All those in
20 favor?

21 COMMISSIONERS: Aye.

22 CHAIRMAN SCHMIDT: Any opposed? No?

23 Well, the time now is 11:58 and we will
24 enter executive session under the Government Code
25 551.071 to discuss pending litigation involving the

1 Texas Racing Commission. Thank you.

2 (Recess for executive session from 11:58
3 a.m. to 12:15 p.m.)

4 CHAIRMAN SCHMIDT: It's now 12:16 and
5 we're reconvening out of executive -- out of executive
6 session at the present time. We discussed litigation
7 involving the Texas Racing Commission versus Marquez.

8 Any further discussion? Any motions?

9 Okay. Hearing none, we'll move forward.
10 Our next Commission meeting is scheduled for November
11 15th, 2011.

12 Is there any other old or new business?

13 Okay. Then we're adjourned.

14 MR. POLUNSKY: Can I ask you a question
15 real quick?

16 CHAIRMAN SCHMIDT: Yes, sir.

17 MR. POLUNSKY: Are there any plans to
18 honor Chairman Pablos for his service?

19 CHAIRMAN SCHMIDT: Yes, there are.
20 Actually I spoke with the chairman last week and
21 specifically requested he come to this meeting. He's
22 traveling. And so tentatively I think it will be
23 November 15th.

24 MR. POLUNSKY: Okay.

25 CHAIRMAN SCHMIDT: But I appreciate your

1 consideration. I hadn't forgotten him. He just -- I
2 think he's on another exciting trip.

3 MR. POLUNSKY: He is.

4 CHAIRMAN SCHMIDT: That's right. Great.
5 So any other old business or new
6 business?

7 Okay. Then we're adjourned at 12:17.

8 Thank you.

9 (Proceedings concluded at 12:17 p.m.)

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1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3

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

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

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

16

17

18

19

20

21 _____
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