

BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

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COMMISSION MEETING
AUGUST 14, 2012

BE IT REMEMBERED that the above entitled matter came on for hearing on the 14th day of August, 2012, beginning at 10:34 A.M. at 105 West 15th Street, Room 140, 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
 GARY P. ABER
 VICKI WEINBERG
 JOHN T. STEEN, III
 ANN O'CONNELL
 ALLAN POLUNSKY

1 CHAIRMAN SCHMIDT: Good morning.
2 Welcome. It's 10:34 and I'd like to call the Texas
3 Racing Commission meeting to order on August 14th.
4 Carolyn, could you please call the roll?
5 MS. WEISS: Yes. Commissioner Aber?
6 COMMISSIONER ABER: Here.
7 MS. WEISS: Commissioner Ederer?
8 VICE-CHAIRMAN EDERER: Here.
9 MS. WEISS: Commissioner Hicks?
10 COMMISSIONER HICKS: Here.
11 MS. WEISS: Commissioner Martin?
12 COMMISSIONER MARTIN: Here.
13 MS. WEISS: Commissioner O'Connell?
14 MS. O'CONNELL: Here.
15 MS. WEISS: Commissioner Polunsky?
16 MR. POLUNSKY: Here.
17 MS. WEISS: Commissioner Steen?
18 COMMISSIONER STEEN: Here.
19 MS. WEISS: Commissioner Weinberg?
20 COMMISSIONER WEINBERG: Here.
21 MS. WEISS: Chairman Schmidt?
22 CHAIRMAN SCHMIDT: Here.
23 It seems that we have a quorum.
24 MS. WEISS: Yes, sir.
25 CHAIRMAN SCHMIDT: Jonathan, has anyone

1 turned in a testimony card during the public comment
2 period?

3 MR. SIERRA-ORTEGA: Yes, sir.

4 CHAIRMAN SCHMIDT: Mr. Carr?

5 MR. CARR: Mr. Chairman, members of the
6 Commission, my name is Snapper Carr. I'm an attorney
7 here today representing Dallas City Limits. I thank
8 you for the time.

9 At the last Commission meeting I gave you
10 a brief update on some of the litigation surrounding
11 the action that had taken place at your February 7th
12 Commission hearing that purportedly transferred
13 ownership and license status of Longhorn Downs from
14 Austin Jockey Club to KTAGS.

15 At that hearing, as you will recall, I
16 represented Dallas City Limits. We testified to you at
17 that time that that matter was not settled. We
18 requested that you all hold off because that item was
19 not ripe. The Court, in particular the Dallas Court of
20 Appeals, was considering appeals from both parties
21 after a jury trial that had found breach of a stock
22 purchase agreement by Austin Jockey Club in
23 relationship to Dallas City Limits.

24 At that time there were several fairly
25 pronounced representations made to you by

1 representatives of both Austin Jockey Club and KTAGS,
2 some of which stating that the stock was going to be
3 released into their possession and that Houston Courts
4 had been determinative as it relates to ownership. At
5 that time we told you that was incorrect. The
6 representatives from the other side indicated that we
7 were incorrect.

8 As it has come to pass, I believe that
9 the record will show that we were accurate in our
10 portrayal of what had occurred. That stock, as it sits
11 today, is in the court registry in Houston. The
12 Houston Court of Appeals has issued an order that your
13 general counsel has that says it will remain there and
14 not go to any party. And they based that decision most
15 importantly upon the July 11th Dallas Court of Appeals
16 opinion that was entered in favor of my client, Dallas
17 City Limits, on their points on appeal and rejected the
18 points of appeal by Austin Jockey Club.

19 They remanded that for an order to be
20 entered by the District Court in light of a jury
21 finding that there was a breach and that that stock
22 purchase agreement and ownership contractual rights are
23 still in place for Dallas City Limits.

24 I think most importantly and something
25 this Commission -- you all should have received a

1 letter from me outlining some of the major points and a
2 copy of that opinion to your offices. The executive
3 director and general counsel have it as well.

4 I think that most importantly the issue
5 that this Commission may want to take a look at is that
6 the issue of the involvement of the Racing Commission
7 was put before the Dallas Court of Appeals by Austin
8 Jockey Club. They, in fact, after your February 7th
9 action, filed a motion to dismiss our appeal based on
10 the doctrine of mootness because, quote, unquote,
11 ownership and licensure had transferred to KTAGS at
12 that point, thus making our appeal moot.

13 The Court of Appeals looked very
14 specifically at that. And again, it was only brought
15 before the Court because of the other party's actions.
16 In that decision -- and I think it's a very important
17 precedent to look at -- the Court of Appeals said
18 "After briefing was complete but before submission,
19 Austin Jockey Club moved to dismiss this appeal as
20 moot. In one of the additional proceedings we referred
21 to above, Austin Jockey Club represented KTAGS to the
22 Racing Commission as a potential purchaser of the stock
23 and holder of the licensee. The Commission approved
24 KTAGS and Austin Jockey Club argues in the motion to
25 dismiss that the Commission's approval of the licensee

1 other than the Dallas City Limits renders Dallas City
2 Limits' appeal moot. We disagree. Although the Racing
3 Commission approval is necessary to obtain licensee
4 status, it has no direct bearing on Dallas City Limits'
5 contractual right to purchase the stock. Both parties
6 represented to this Court that the stock purchase
7 agreement between Austin Jockey Club and KTAGS is
8 expressly subject to the contractual rights of Dallas
9 City Limits. Thus, approval of KTAGS by the Commission
10 means nothing so long as Dallas City Limits possesses a
11 superior contractual right."

12 On February the 7th my clients came
13 before this Commission and asked that you all keep the
14 status quo in place because this matter was not settled
15 at that time and it was a premature tack. In acting,
16 there was harm to my client's contractual right that
17 they had paid a very significant sum of money to
18 obtain, in excess of a million and a half dollars, in
19 addition to annual fees that they paid on behalf of
20 Austin Jockey Club to keep that license and active
21 before this Commission.

22 We asked at that time -- again, we did
23 not want preferential treatment. We did not want to be
24 placed at a better position than the other parties. We
25 simply said we needed to maintain the status quo.

1 Based in part on what I will label as
2 inaccurate information provided to this Commission as
3 to the status of that litigation, you all acted. What
4 we would respectfully request and what we request in
5 writing is that this item be placed on the agenda for
6 consideration at a future and very hopefully at the
7 next regular Commission meeting so that you can
8 potentially reconsider that action in light of the
9 Dallas Court of Appeals opinion, in light of the
10 Houston Court of Appeals opinion saying that this stock
11 is not going to be released. And they based, again,
12 that decision on the superior contractual right that
13 Dallas City Limits has to ownership of that stock.

14 And with that, I would again thank you
15 for your time. I know this has been a long saga for
16 you all. I appreciate here at my fourth straight
17 Commission meeting to get to testify to you and I look
18 forward to maybe getting to testify one additional
19 time.

20 Thank you.

21 CHAIRMAN SCHMIDT: Thank you, Mr. Carr.
22 Just for clarification, sir, you mentioned that you had
23 written the Commission. I reviewed a letter this
24 morning dated August 13th. That's the letter and
25 information that you're referring to?

1 MR. CARR: Yes, sir.

2 CHAIRMAN SCHMIDT: There's no additional
3 information.

4 MR. CARR: No, sir. There was a letter
5 and an attachment of the Dallas Court of Appeals
6 opinion.

7 CHAIRMAN SCHMIDT: We'll review this
8 matter. Thank you, sir.

9 MR. CARR: Thank you, sir.

10 CHAIRMAN SCHMIDT: Jonathan, did anyone
11 else request to speak?

12 MR. SIERRA-ORTEGA: No, sir.

13 CHAIRMAN SCHMIDT: Okay. We'll move to
14 general business. A budget and finance update.
15 Mr. Jackson?

16 MR. JACKSON: Thank you, Mr. Chairman.

17 Commissioners, on pages III-A-1 and
18 III-A-2 of your agenda packet, you will find the
19 agency's fiscal year 2012 operating budget reflecting
20 revenue collection and expenditures as of June 30th,
21 2012. With 83 percent of the fiscal year being
22 completed, I'm happy to report that the agency has
23 collected 81 percent of projected revenues and expended
24 67 percent of the projected expenditures.

25 I'd like to note that the last two months

1 of the fiscal year, July and August, normally reflect a
2 higher percentage of the agency's expenditures as
3 compared to the other months due to a more active
4 summer racing schedule. This will be the case in
5 fiscal year 2012 and the agency's budget is in a good
6 position to absorb these additional expenditures.

7 If you have any questions, I'll be happy
8 to answer them.

9 CHAIRMAN SCHMIDT: Any questions of any
10 of the Commissioners of Mr. Jackson, from the
11 Commissioners to Mr. Jackson?

12 Thank you, Mr. Jackson.

13 B, a report of racetrack inspections.
14 Mr. Blodgett?

15 MR. BLODGETT: Mr. Chairman, good
16 morning, Commissioners. Jim Blodgett. I'm employed as
17 the new director of investigations for the agency.

18 Commissioners, on page III-B-1 of your
19 agenda packet, you'll find a report on racetrack
20 inspections, activities for the period of June 1, 2012,
21 through July 31st, 2012. The report reflects that
22 staff conducted three administrative inspections, six
23 racing inspections, three veterinarian inspections, six
24 safety and security inspections, two wagering
25 inspections, and two training center inspections,

1 totaling 22 inspections since our last meeting.

2 Of these inspections, only one racing
3 inspection at Lone Star Park has two unsatisfactory
4 items remaining outstanding at this time. The two
5 items at Lone Star are in regard to maintenance and
6 repairs of the restroom facilities in the stable
7 areas. These items will be followed up on in
8 conjunction with our pre-meet inspection at Lone Star
9 for the fall Quarter Horse meeting that begins
10 September the 14th. And I would add that we are
11 currently working with management to resolve this issue
12 as we speak.

13 CHAIRMAN SCHMIDT: Thank you.

14 Any questions from any of the
15 Commissioners?

16 Thank you, sir. Appreciate it.

17 Wagering statistics. Mr. Jackson?

18 MR. JACKSON: Thank you, Mr. Chairman.

19 Commissioners, on pages III-C-1 and
20 III-C-3 of your agenda packet, you will find the report
21 on wagering statistics for the period of January 1st
22 through August 5th for both 2011 and 2012.

23 The report reflects that 2012 total
24 wagering activity has increased at our horse racetracks
25 but has declined at the greyhound racetracks. For

1 example, live wagering is up by 2.6 percent at our
2 horse tracks and yet down by 13.3 percent at our
3 greyhound tracks. Wagering on Texas races by patrons
4 outside of Texas is up by 6.3 percent at our horse
5 tracks and down by 11.3 percent at our greyhound
6 tracks. Simulcast wagering on horse races is up by 4.2
7 percent at our horse tracks and yet down by 1.9 percent
8 at our three greyhound tracks. And simulcast wagering
9 on greyhounds is down at both the horse tracks and the
10 greyhound tracks.

11 In closing, it appears that the wagering
12 on horse racing appears to be recovering from the
13 declines that have occurred over the past few years.
14 However, wagering on greyhound racing is continuing to
15 show declines.

16 This concludes my report. And if you
17 have any questions, I'll be happy to answer them.

18 CHAIRMAN SCHMIDT: Any questions of
19 Mr. Jackson?

20 Mr. Jackson, just one thought. I know
21 you study this. In Texas, live racing is about --
22 compared to simulcast betting, what's the ratio there?

23 MR. JACKSON: Percentagewise? It is
24 approximately about 30 percent of the total bets.
25 Simulcast import is approximately 48 percent. Then

1 export wagering is, I think, about 12 percent. And the
2 remainder is cross-species or betting on the opposite
3 species at the tracks, which would also actually come
4 underneath the topic of simulcast as well.

5 CHAIRMAN SCHMIDT: That's about
6 consistent with the national average, a little more?

7 MR. JACKSON: I believe so, yes, sir.

8 CHAIRMAN SCHMIDT: Thank you.

9 Enforcement report. Mike?

10 MR. GOUGLER: Good morning,
11 Commissioners.

12 You have an updated copy of the
13 enforcement report provided to you this morning to
14 cover the period January 1st through July 31st of this
15 year. The information provided is consistent with
16 performance over the past year. The only difference is
17 the continued decline in renewal and new licensees
18 based on sunset that we're no longer licensing people
19 on the front side.

20 We're going to take a look at the way we
21 count our gate, barn, and kennel searches, I think to
22 give a more accurate reflection in the future of the
23 work that's being done. When we have gate searches, we
24 tend to go through all the barns out there. So you'll
25 probably notice a little bit of a discrepancy in the

1 next report just to make sure we capture the actual
2 work that's being done out there a little more
3 accurately.

4 Thank you.

5 CHAIRMAN SCHMIDT: Any questions of
6 Mr. Gougler?

7 Thank you, sir. Thank you very much.

8 A report by the committee on safety and
9 medication. Dr. Quirk?

10 MR. QUIRK: Mr. Chairman, Commissioners,
11 good morning to you all.

12 I think it's our collective good fortune
13 to recognize that at our last safety and medication
14 working group meeting on the horse side, two of your
15 number were present, so they can elaborate on or refute
16 anything I tell you this morning.

17 But let me -- suffice it to say that that
18 meeting, I think, was very interesting in that it was
19 probably our broadest participation, certainly the
20 greatest attendance that we've experienced since I've
21 been on board. Clearly there's a good deal of
22 frustration in the industry with what's been going on
23 most recently in horse racing and really a fairly
24 desperate, I think, plea to take a strong look at the
25 penalty structures that are currently in place in

1 racing and urging actually a harsher penalty
2 structure. I think that was a fairly resounding
3 message from that group and I think it's fair to say
4 that it approached unanimity.

5 We went on to discuss a number of other
6 issues. There was a group there called Racing Free,
7 which is actually a Texas-born group, strangely -- I
8 shouldn't say strangely, but out of -- originated in
9 San Angelo, where they're soliciting membership from
10 owners of racehorses to enter into an agreement to race
11 their horses drug-free.

12 Clearly to monitor that is going to be a
13 testing issue. And part of that effort was to embrace
14 the concept of so-called super testing which expands
15 the testing protocols and then the breadth of testing
16 and the depth as well. That obviously is going to be
17 an expensive matter and we'll have to see what kind of
18 traction that effort gains.

19 There are a couple of groups nationally
20 that are emerging as well. One is called WHOA, which
21 is a group of prominent Thoroughbred owners. And of
22 course, the WHOA is for -- it's an acronym for Water,
23 Hay, Oats Alliance, I think the A is. And their --
24 essentially their effort will be to eliminate race day
25 medications in racing and that's going to be an ongoing

1 battle for them, I think, but nonetheless that's their
2 effort.

3 There was an interesting article this
4 morning written by a journalist, a prominent racing
5 journalist, by the name of Ray Paulick. And I'm sure
6 the chairman knows who I'm speaking of. His comment
7 was that -- he basically describes regulators as a
8 confederacy of dunces. And I think more than anything
9 it's another indication of the frustration that the
10 public may have, or at least those members of the
11 public interested in racing may have, concerning what's
12 happened recently with the drug positives and the
13 performance-enhancing side.

14 We did -- we did go off into several
15 other directions. I think we did discuss, in fact, the
16 race day medication issue of furosemide, which I
17 suspect is an issue that you're concerned about. I
18 think it's fair to say that of that group, it wasn't
19 unanimous, but the majority of them did believe that
20 furosemide is appropriate in racing in this country
21 because of the nature of the product that we have and
22 the frequency of starts and the year-round calendar.

23 That debate will be an ongoing one. I
24 don't expect that the Jockey Club is going to give up
25 on that issue. I think the implications are that there

1 are market implications there and that perhaps there is
2 a genetic concern.

3 Beyond that, let's see, we did discuss
4 also -- we looked into perhaps reviewing the claiming
5 rules that are currently hot topics, frankly, in
6 California and New York, whereupon I think a horse that
7 is claimed out of a race but subsequently suffers a
8 catastrophic injury in that race, then the claim would
9 be voided. That can get a little dicey. It really --
10 on the face of it, it sounds admirable and it may
11 actually turn out to be that way if it's managed
12 properly. But it really is going to put, frankly, our
13 veterinarians in a bit of a delicate spot on making a
14 call there. However, I think that can be dealt with.

15 Beyond that, I think going forward we
16 have some significant challenges ahead of us on the
17 drug testing front. This brave new world of peptide
18 use is a huge concern for us. They're very difficult
19 to deal with. They're subject to sample degradation
20 very quickly. We're going to have to review all of our
21 processes for handling these samples and we'll see
22 where that leads.

23 And I think that pretty much covered most
24 of what our discussions centered on, unless either of
25 the Commissioners present have something they want to

1 share with us on that.

2 COMMISSIONER ABER: Well, I'd like to.
3 You know, the public was really concerned, you know,
4 that we're not penalizing the people that are getting
5 the bad drug tests, of course. And the thing about it
6 is they're going in the time frame and then they're
7 running the horses again back and then they're -- so,
8 you know, you've got all that time frame and then
9 they're going to be running another horse, the same
10 trainer that got the bad test.

11 And I know we have to have due process,
12 but we really have to work at eliminating some of that
13 and penalizing them. I saw the other day where one of
14 the shot putters at the Olympics tested positive and
15 they just cut him out. You know, that's the end of
16 it.

17 So we need to look at that process to see
18 if we can stop them and not let them keep running,
19 especially when you're talking about the peptides and
20 the dermorphin and topamine and Zilmax and the products
21 like that.

22 And on the claiming, you know, I think
23 that's -- everybody wants to table that. But as you
24 know, the New York Commission has, you know, said
25 they're not going to do that. I'd hate to claim a

1 horse -- and a lot of people claim a horse and that's
2 the public. And they come up with a bad test or a
3 broken leg. I don't think that sounds -- that's right,
4 you know, for the public and the owners, you know.
5 We're going to run out of owners. So that's all got to
6 be discussed, but I hate to see us just keep putting it
7 in another committee.

8 CHAIRMAN SCHMIDT: Thank you, Dr. Aber.
9 Appreciate that.

10 COMMISSIONER MARTIN: I agree. I feel
11 the same way on the claiming rule. I think we need to
12 probably go forward with something on that. And the
13 drugs is something -- and I've been to a few of these
14 meetings now and would have to agree with Dr. Quirk.
15 There was a lot of people there and there were some
16 pretty genuine comments about people wanting harsher
17 penalties.

18 And I think not only does it have to go
19 in the penalty direction, but it also has to -- somehow
20 we need to get to a point to where these people can't
21 just put these horses in another person's name and
22 continue to run these horses and that sort of thing.
23 And I think that's another big problem that we're going
24 to be faced with on how to handle that. But I
25 certainly think we need to move forward on those

1 problems.

2 MR. QUIRK: Thank you.

3 CHAIRMAN SCHMIDT: Thank you, sir.

4 A report by the committee on rules. I
5 think what we'll do is postpone this action item until
6 later in the meeting.

7 Item G, approval of the Commission's
8 legislative appropriations request for fiscal year 2014
9 and 2015 and operating budget for fiscal year 2013.
10 Mr. Jackson, can you lay out the items for us?

11 MR. JACKSON: Yes, sir, Mr. Chairman.

12 Commissioners, before I get into this,
13 I'll apologize. This is somewhat lengthy. But the LAR
14 process itself is a lengthy process. So bear with me
15 here.

16 Commissioners, on pages III-G-1 through
17 III-G-27 of your agenda packet, you will find a summary
18 of the agency's 2014-15 legislative appropriations
19 request and its FY 2013 operating budget. And I will
20 begin with the operating budget for 2013.

21 The FY 2013 operating budget has been
22 prepared assuming that the agency will regulate, staff,
23 and support 273 live greyhound performances, 192 live
24 horse race days, and 2,184 simulcast race days. And I
25 would note that these dates would support what we have

1 received with race date request applications as of July
2 20th.

3 Based upon these assumptions, staff
4 estimates that the agency will need 52.1 full-time
5 positions, 8.348 million in appropriated budget
6 authority, and 0.95 million in unappropriated budget
7 authority for a total budget of 9.299 million. These
8 amounts are reflected on pages III-G-7 and III-G-8
9 under the projected 2013 column.

10 If you were to compare the FY 2012
11 current operating budget to this proposed FY 2013
12 operating budget, you will find that the FY '13
13 operating budget that is proposed has a two percent
14 reduction in full-time positions and yet a one percent
15 increase in total budget authority.

16 The additional budget authority is needed
17 to cover increased costs in the following areas: Other
18 personnel costs. This is for lump sum payments on 10
19 employees that are eligible to retire in this next
20 operating year. I'd like to point out that represents
21 approximately 20 percent of your staff.

22 Utilities. The agency is now in a
23 position where we are required to pay for the
24 electrical costs for our building. This is the first
25 time. Prior to '13 the agency's utility amount was

1 into the contract of the lease for the building and
2 that has changed. In addition, there's also some
3 increased costs for telecommunications which deal with
4 our data lines to support our regulatory database.

5 And finally, other operating costs, which
6 involves maintenance contracts on our IT equipment.

7 Staff has also performed a comprehensive
8 review of the agency's cash flow and current fee
9 schedule that is found on Commission -- that is found
10 in Commission Rule 309.8, Racetrack License Fees.

11 Based upon the fee schedule and the assumptions
12 previously outlined, staff projects that 9.09 million
13 in new revenue will be generated in FY 2013.

14 Additionally staff has projected that a 1.03 million
15 cash carry-forward will occur from FY 2012 into FY
16 2013.

17 The combination of the new revenue and
18 the cash carry-forward are adequate to fund the FY 2013
19 proposed operating budget and at the same time provide
20 an ending cash balance of approximately .82 million
21 that could be carried forward into FY 2014. From a
22 cash standpoint, that is a very good position for the
23 agency to be in.

24 Going into the 2014-15 legislative
25 appropriation request, base reconciliation is one of

1 the first steps for the agencies in developing their
2 legislative appropriation request for a biennium. The
3 base for the 2014-15 LAR refers to estimated
4 expenditures for 2012 plus budgeted expenditures for
5 2013 for general revenue and general revenue dedicated
6 accounts.

7 The base compromise is the historical
8 data that must be reconciled with original
9 appropriations, taking into consideration adjustments
10 made through riders, transfers, unexpended balances,
11 legislation, and so forth for the same period. If an
12 agency's budget is to exceed the baseline amount,
13 exceptional items detailing the purpose and
14 justification for the funds exceeding the baseline
15 amount must be submitted with the LAR for it to be
16 considered.

17 Staff has worked with the Legislative
18 Budget Board to establish a baseline of 16.623 million
19 in appropriations for the 2014 and '15 biennium or
20 8.316 million per fiscal year. In comparison to our
21 previous LAR, this reflects a baseline amount reduced
22 by approximately .4 percent.

23 The 2014-15 LAR has been prepared
24 assuming the agency will continue to regulate, staff,
25 and support those same dates that I discussed in the

1 2013 operating budget. And based on those assumptions,
2 staff estimates that the agency will need, for each
3 year of the biennium, 52.6 full-time positions and
4 8.316 million in appropriated budget authority and .97
5 million in unappropriated budget authority, for a total
6 of 9.29 million in budget authority per fiscal year.
7 These amounts are reflected on page III-G-7 and III-G-8
8 of your agenda packet under the projected 2014 and '15
9 columns.

10 If you were to compare either of these
11 years in 2014 and '15 biennium to the proposed 2013
12 operating budget, you will find there is only an
13 additional half FTE in each year and a reduction in
14 budget of 32,000 per year.

15 Staff has prepared one exceptional item
16 that would add appropriated budget authority beyond the
17 base in the event a new horse racetrack or a closed
18 horse racetrack reopens during the biennium. This
19 exceptional item will provide an additional five FTE's
20 and \$635,637 in budget authority per fiscal year for
21 each new or reopening racetrack that begins operations
22 during the biennium. The budget authority would cover
23 both regulatory costs and Texas-bred incentive program
24 funding. Information on this exceptional item can be
25 found on pages III-G-9 and III-G-13 of your agenda

1 packet.

2 And I would like to note that that rider
3 has existed -- or this exceptional item is in reference
4 to a rider that has existed in the agency's bill
5 pattern for several years. This is not a new rider.
6 It's just refreshing the previous one.

7 Staff has reviewed the agency's current
8 rider schedule with the general -- within the General
9 Appropriations Act and prepared the rider revisions and
10 additions request schedule found on page III-G-14
11 through III-G-17. No new riders were determined to be
12 needed at this time, so only updates to the existing
13 riders have been submitted.

14 Lastly, staff has prepared the 10 percent
15 biennial reduction schedule that will reduce the
16 agency's base budget by 1.663 million over the biennium
17 if enacted. The reduction schedule can be found on
18 pages III-G-18 through III-G-27 of your agenda packet.
19 And the budget reduction has been targeted to the
20 following eight budget projects: One is the Texas-bred
21 incentive program. The Texas-bred incentive program
22 budget authority would be reduced by 415,634 per fiscal
23 year or 831,000 for the biennium under this project.
24 This represents 50 percent of the required base
25 reduction amount and that is pass-through money for us

1 which is 50 percent of our budget.

2 Item 2, eliminate accounting professional
3 services. Professional fees and service budget
4 authority will be reduced by 5,000 per fiscal year or
5 10,000 for the biennium under this project. This
6 represents six-tenths of the base reduction amount and
7 would eliminate the professional services that we use
8 to prepare the agency's annual financial report. We
9 would take that in-house and do it internally.

10 Three, eliminate training budgets.
11 Training budget authority will be reduced by 28,150 per
12 fiscal year or 56,300 for the biennium under this
13 project. This represents 3.3 percent of the base
14 reduction amount and will remove all training money in
15 every strategy except for the information systems
16 strategy.

17 Fourth, we hit the Texas-bred incentive
18 program again. This Texas-bred incentive program
19 budget authority is reduced by 209,366 per fiscal year
20 or 418,732 for the biennium of this project. This
21 represents 25 percent of the base required reduction
22 amount.

23 Five, we reduced workweeks. Six
24 full-time staff positions will be made part-time and
25 scheduled to 32 hours per week instead of 40 hours per

1 week. This project will reduce FTE's by 1.2 and budget
2 authority by approximately \$51,480 per fiscal year or
3 102,959 for the biennium. This represents 6.1 percent
4 of the required base reduction amount.

5 Project 6, delay replacement of computer
6 equipment. The computer equipment life cycle
7 replacement schedule would be suspended. This project
8 would reduce the budget authority by \$26,100 per fiscal
9 year or \$52,200 for the biennium. This represents
10 three percent of the base reduction amount.

11 Item 7, eliminate wagering integrity
12 professional services. Professional fees and services
13 budget for independent testing of wagering systems
14 would be eliminated. This project would reduce budget
15 authority by 75,000 per fiscal year or \$150,000 for the
16 biennium. This represents nine percent of the base
17 reduction amount.

18 And lastly, Project 8 is furlough two
19 days per fiscal year for each employee. Each employee
20 would be required to take two days per year off without
21 pay. This project will reduce the budget authority by
22 approximately 20,899 per fiscal year or 41,797 for the
23 biennium. And it represents three percent of the base
24 reduction amount.

25 In closing, I would like to direct you to

1 pages III-G-11 through III-G-12 of your agenda packet.
2 There you will find graphs of the agency's LAR base
3 request history, number of employees history, object of
4 expense history, and the Texas-bred incentive program
5 request history for fiscal years 2007 through 2015.
6 Staff believes these graphs provide a clear indication
7 that the agency has made significant budget reductions
8 and continues to maintain these reductions through the
9 fiscal year 2015 LAR request.

10 At this time staff requests that the
11 Commission approve the fiscal year 2013 operating
12 budget and the 2014-15 legislative appropriation
13 request as presented to you today.

14 I would note that before I close here, we
15 have a scheduled meeting with the Legislative Budget
16 Board staff for questions on our LAR next week and they
17 have already notified us that they will be preparing to
18 schedule the budget -- the big budget review with the
19 Governor's office and their staff down here at the
20 capitol in late September. So we are moving forward on
21 this.

22 And with that, if you have any questions,
23 I'll be happy to answer them.

24 CHAIRMAN SCHMIDT: Are there any
25 questions of Mr. Jackson from any of the

1 Commissioners?

2 Sammy, I had one question. I want to
3 compliment you. This old motto, take care of the
4 pennies and the dollars will take care of themselves.
5 And it looks like you've really done that.

6 I went back to, I think, III-G-8 and
7 III-G-7. I guess one thing that concerns me and it
8 reflects our earlier discussion is that we're testing
9 for drugs now that weren't in our vocabulary a year
10 ago. Do we have a plan in case our drug test costs
11 increase significantly in '13, '14, and '15?

12 MR. JACKSON: Well, do you want me to
13 answer that one, Chuck?

14 MR. TROUT: Go ahead.

15 MR. JACKSON: We're very fortunate in
16 that the actual drug testing costs are not paid by the
17 Commission. The drug testing costs are paid by the
18 racetracks. So any cost increase on that,
19 unfortunately for the racetracks, would be on their
20 side, but it doesn't come through our budget.

21 CHAIRMAN SCHMIDT: So we don't have to
22 furlough any more days to pay for the testing.

23 MR. JACKSON: Correct.

24 CHAIRMAN SCHMIDT: Thank you.

25 VICE-CHAIRMAN EDERER: One question,

1 Sammy. An increase in wagering --

2 MR. JACKSON: Yes, sir.

3 VICE-CHAIRMAN EDERER: -- could affect
4 our budget --

5 MR. JACKSON: Yes, it could.

6 VICE-CHAIRMAN EDERER: -- in a positive
7 way --

8 MR. JACKSON: Yes, it would.

9 VICE-CHAIRMAN EDERER: -- if it continues
10 the trend it's going right now.

11 MR. JACKSON: In fact, I had to factor in
12 increase of the Texas-bred incentive program because of
13 these increases in wagering that we're seeing.

14 CHAIRMAN SCHMIDT: Any other questions of
15 Mr. Jackson?

16 Jonathan, is there any public comment?

17 MR. SIERRA-ORTEGA: No, sir.

18 CHAIRMAN SCHMIDT: Any further
19 discussion?

20 If there's no further Commission -- if
21 there's no further discussion by the Commission, I'd
22 certainly entertain a motion to approve the
23 Commission's legislative appropriations request for
24 2014 and 2015 and to concurrently approve the operating
25 budget for fiscal year 2013.

1 Is there a motion?

2 COMMISSIONER MARTIN: I make a motion to
3 approve.

4 CHAIRMAN SCHMIDT: A motion to approve by
5 Dr. Martin.

6 COMMISSIONER WEINBERG: Second.

7 CHAIRMAN SCHMIDT: Seconded by
8 Commissioner Weinberg.

9 Let's call the matter to a vote. All
10 those in favor signify by saying aye.

11 COMMISSIONERS: Aye.

12 CHAIRMAN SCHMIDT: Anyone opposed?

13 Then the motion is carried. Thank you.

14 Proceedings on racetracks, Item IV,
15 discussion, consideration, and possible action on the
16 following matters: Allocation of live race dates for
17 horse racetracks under Commission Rule 303.41 for the
18 period beginning January 1, 2013, and ending August
19 31st, 2014.

20 Mr. Jackson, can you again lay out this
21 item for us, if you could?

22 MR. JACKSON: Yes, sir, I'd be happy to.

23 Commissioners, at the June 19th
24 Commission meeting, you approved opening a race date
25 application period to receive race date applications

1 for race dates for calendar year 2013 and the first
2 eight months of calendar year 2014 for both horse and
3 greyhound race dates.

4 The application period opened on June
5 20th and closed on July 20th with staff receiving
6 several applications requesting race dates from the
7 following racetracks: Lone Star Park, Retama Park, Sam
8 Houston Race Park, Gillespie County Fair, Laredo Downs,
9 and Gulf Greyhound Park.

10 Since receiving these applications, staff
11 has monitored the current discussions on items that
12 impact the race date allocation process, such as
13 overlap of race dates and industry agreements that
14 address simulcast purse allocations.

15 Staff would like for you to consider
16 tabling the discussion of race dates until the October
17 9th Commission meeting to allow for race date committee
18 meetings and to provide the industry more time to work
19 on industry agreements that involve allocation of
20 simulcast purse funds.

21 That being said, staff has received a
22 request to place the Laredo Downs race date request on
23 today's agenda for discussion and consideration. Staff
24 understands their request and has provided the
25 information in your packet under pages IV-A-1 through

1 IV-A-15.

2 And with that, I believe the Laredo Downs
3 people are here to speak before you today.

4 CHAIRMAN SCHMIDT: Okay. Has anyone
5 signed up to speak?

6 MR. SIERRA-ORTEGA: Yes, sir.

7 CHAIRMAN SCHMIDT: Mr. Moltz representing
8 Laredo Downs.

9 MR. MOLTZ: Thank you, Mr. Chairman,
10 Commissioners.

11 We -- Laredo Downs has requested that
12 their race date request be considered today. And
13 there's two reasons for that. But before I get into
14 that, we do understand the interaction between the race
15 dates of the various tracks and that the overall
16 picture will be considered or at least a proposal is to
17 be considered in October and we do understand that
18 there would be a potential for reconsideration of the
19 race dates for Laredo Downs. So we're not asking that
20 those be put in stone here today.

21 We are asking that Laredo Downs be
22 granted the race dates, at least provisionally, until
23 October for two reasons. First is that Laredo Downs is
24 working in concert with Laredo Race Park, the two
25 tracks in Webb County, on putting together a temporary

1 live race meet in Webb County at an existing facility.
2 They would work together. It's in its preliminary
3 stages, but these two tracks would actually hold live
4 races in Webb County for the first time.

5 And in order to go forward with that
6 proposal, obviously we need to have race dates. Now,
7 we can ultimately move those race dates to whatever
8 works for these temporary races, but we have to have
9 some race dates to move. And I believe that Laredo
10 Downs wants some assurance that they've got some race
11 dates before they go down this path too far on this
12 temporary location. So putting it off until October
13 would effectively put off organizing these temporary
14 races for those two months.

15 The other reason, a little more obvious
16 from today's meeting -- well, let me back up a second.

17 If you -- those negotiations for the
18 temporary location are in the beginning stages. Now,
19 Mr. LaMantia on behalf of Laredo Downs is here, as is
20 Ms. Young from Laredo Race Park, if you have any
21 specific questions. I don't know if they'll be able to
22 answer them, but -- I can't, but they'd be happy to
23 come up and discuss that with you all. I don't have
24 much more detail beyond that. But I suspect they
25 might.

1 The other reason -- let me move on to
2 Reason 2. And that is that a subsequent item on
3 today's agenda is these active/inactive designations of
4 the racetracks. And without commenting on the
5 appropriateness of it, the rule itself requires that in
6 order to be an active track or active-other track that
7 you have to have race dates. Laredo Downs does not
8 currently have any race dates and getting race dates
9 granted in October is rather problematic for a decision
10 that's going to be made here in a few minutes.

11 And for that reason also, we would
12 request that we be granted race dates at least for
13 purposes of -- until October, so when we have the
14 discussion of active and inactive, we can actually look
15 at what's going on in Laredo and the reality of the
16 situation, the efforts that have been made, and not get
17 stuck on whether or not there's race dates.

18 And again, with regard to if you would
19 want to get into what's been going on in Laredo,
20 Mr. LaMantia is here. He can get into much more detail
21 with that and would be happy to do so.

22 That is the reasons -- are the two
23 reasons for our request that we be considered for race
24 dates today, again, with the understanding that it has
25 to fit into the overall picture which will be

1 considered in October or the proposal is for it to be
2 considered in October.

3 CHAIRMAN SCHMIDT: Are there any
4 questions of Mr. Moltz from any of the Commissioners?

5 VICE-CHAIRMAN EDERER: I'm not clear on
6 what you meant by -- I think I misheard you. The two
7 different license holders are going to combine to have
8 a racing event in Laredo or in Webb County? Is that
9 correct?

10 MR. MOLTZ: Well, the word "combine," I'm
11 not sure --

12 VICE-CHAIRMAN EDERER: Combine -- well,
13 whatever.

14 MR. MOLTZ: They would work together in a
15 joint effort to have a race -- a live race meet in
16 Laredo.

17 VICE-CHAIRMAN EDERER: At the same
18 location?

19 MR. MOLTZ: At the same location. It's
20 another one of these attempts -- out-of-the-box, I'll
21 call it, attempt to actually bring some activity to the
22 horse race -- and actually live racing in South Texas.

23 MS. O'CONNELL: Does the license require
24 you to only run live races at your designated
25 location?

1 MR. LaMANTIA: I'm sorry. What was the
2 question?

3 MS. O'CONNELL: Doesn't the license
4 require you to only run live races at your designated
5 location?

6 MR. LaMANTIA: I'm not sure, but I mean,
7 that would be -- we have to follow the rules, whatever
8 they are, and maybe we can change that to something
9 that's jointly. And this is in the very preliminary
10 stages. It's just thinking outside of the box, where
11 we're not combining two licenses or anything, but could
12 we find a facility where we could run some races and we
13 would, say, take five dates, they would take five dates
14 at this location, and then we would each run them on a
15 temporary basis.

16 But this is very preliminary. But this
17 is just an idea, like the idea we had with the
18 greyhound industry, you know, with Gulf Coast and
19 La Marque and running races over there and being able
20 to supplement those purses by like a million dollars
21 for the greyhounds over the last three years, just
22 outside-of-the-box thinking like we tried to do in
23 McAllen with an off-site simulcast facility, et
24 cetera. So this was one idea we had. It's very
25 preliminary. But that's the thought.

1 want to see live racing down in Webb County. And I
2 like your thinking. And like the doctor says, I
3 believe that there is precedent. And I think it's a
4 very good idea. However, the location, of course, is
5 problematic and at this point in time the dates would
6 be.

7 I think we can -- well, we can't assure
8 you, but I can say that we'd certainly welcome the
9 opportunity to have more specific race dates and
10 location put to us and I think that the Commission --
11 at least I know that we would welcome the opportunity
12 to entertain this.

13 Tell me this. Would there be simulcasts
14 considered at this point?

15 MR. LaMANTIA: Yeah. I mean, that's one
16 of the things we would look at is trying to get
17 simulcasts up and running obviously before you have
18 race dates if it's possible, again, if it's possible,
19 and then trying to build some purse money, et cetera.
20 And if the dates become an obstacle for some reason in
21 the future, then we'd change those dates. I mean,
22 we're open to it.

23 I think -- I think the concept is
24 investigating this idea, see if it will work, see if it
25 makes sense, see how it dovetails into simulcasts, and

1 put the dates out. And if they have to change, they
2 have to change. And then when you go out and talk
3 to -- whether it's the -- you know, the simulcast
4 people or whatever, you have the dates and can say,
5 "Look, I've got dates, so this is real. We can try
6 this."

7 This is, again, very preliminary, but
8 it's something that we'll work forward. But I wouldn't
9 let these dates specifically -- if that's going to be a
10 problem in the future, we'd change the dates.

11 VICE-CHAIRMAN EDERER: I understand. And
12 I'm sure as long as the dates would fit into the racing
13 schedule for the state that it would be just fine. But
14 I don't understand the urgency for getting the dates at
15 this point in time.

16 MR. LaMANTIA: I think part of it is so
17 that you have an active or active-other designation.
18 And I think that's important. I think that we have
19 been straightforward at what we've been trying to do at
20 the different entities that own these different
21 tracks. We've been straightforward with the Corpus
22 Christi facility, which was mothballed and no revenue.
23 And we employ people at that track now. It's part of
24 the community. And we've given -- I don't know what
25 the exact number is, but hundreds of thousands, maybe

1 close to a million dollars to the dog purses at
2 La Marque. That's a good thing.

3 We thought about the idea of opening a
4 simulcast facility in a different location in McAllen,
5 brought it forward, spent money to do that. It didn't
6 work out for whatever reason. And that's fine. And I
7 understand you have another application for Amarillo
8 for that potential, which I would say is a great idea.

9 And we think it's important that all the
10 tracks to the extent possible that are showing
11 movement, that are showing trying to get things done,
12 are active or active-other. And I don't see a downside
13 to this. I don't see any down -- what is the downside
14 to giving us race dates? I can't think of one.

15 CHAIRMAN SCHMIDT: I think the downside
16 to giving you race dates today is for the reasons
17 Mr. Jackson enumerated. In my experience, the
18 Commission -- although I'm not on the race date
19 committee any longer, these are delicate discussions
20 between the tracks and the horsemen's groups regarding
21 purse allocation. And so to preempt the discussion by
22 saying dates are here for one track affects the entire
23 negotiation, particularly when this should be resolved
24 in three or four weeks.

25 I guess the question I have for you is --

1 you know, this is a process. And regardless -- and
2 this is a process for all the tracks here. Regardless
3 of how you're designated today, we can reconsider this
4 in October, we can reconsider this in December. And so
5 in just going over the active-other discussion, we're
6 moving forward, but it is intertwined. It doesn't seem
7 that -- at the Laredo track there's not simulcasting
8 right now nor is there imminent simulcasting. Is that
9 a fair statement?

10 MR. LaMANTIA: Yes, sir.

11 CHAIRMAN SCHMIDT: So one Commissioner
12 out of nine speaking right now, in my initial purview
13 of this, I would say that regardless of whether you had
14 race dates today or not, I think there's a likelihood
15 that you'd still be designated as inactive today.

16 Now, if you, in fact, were to wait a
17 month, let the horsemen work it out, which is what
18 we've traditionally done, go forward with your combined
19 plan, which I think the Commission would look very
20 openly at based on precedent, and then had some
21 simulcasting, I think you could come back in October
22 and change your designation and be done.

23 MR. LaMANTIA: Well, I think that there's
24 two issues: Number one, race dates, and the active
25 versus inactive. If at the end of the day without the

1 race dates we can be considered active, that's a
2 wonderful thing. That's where we want to be. Okay?

3 And if that is -- if it's necessary that
4 we have race dates, understanding what you just pointed
5 out, the reverse is true. We could establish the race
6 dates. The horsemen could get together. Everybody
7 could talk about it and say, look, these particular
8 dates don't work on August the 14th, so change them.
9 We would be willing to do that. So I'm open to which
10 way to go.

11 I think there are two points. Number
12 one, we're working. We're looking. We're thinking
13 outside the box to get somewhere asking for dates. If
14 that in any way turns out to jeopardize somebody else's
15 dates, fine, we'll move them. Not a problem.

16 In addition to that, if active is not an
17 issue here and we can be viewed and marked or the box
18 checked as active and leave the race dates to another
19 time, I'm in favor of that. That would be fine, too.
20 I just don't want not to have race dates and say, okay,
21 because no race dates, you're not active. So I can go
22 either way, I mean, with whatever you all think.

23 CHAIRMAN SCHMIDT: Maybe you
24 misinterpreted. My perspective was just the opposite,
25 that it looks to me, regardless of whether you have

1 race dates or not, you would most likely be inactive.

2 MR. LaMANTIA: I didn't realize that.

3 That's not what we would think.

4 CHAIRMAN SCHMIDT: This is based on my
5 initial review of this criteria. Again, we have eight
6 other Commissioners to vote here. And so delaying the
7 race dates until October to let the horsemen work this
8 out could solve both issues.

9 MR. LaMANTIA: Is it a fair question to
10 ask you why, even if I have race dates, I would be
11 inactive? Is that a fair question?

12 CHAIRMAN SCHMIDT: Sure.

13 MR. LaMANTIA: Okay.

14 CHAIRMAN SCHMIDT: I mean, just for the
15 reasons -- again, I'm moving ahead an agenda item, but
16 these are intertwined. I don't think we're really out
17 of order.

18 It looks to me, based on my reading of
19 the active-other designation -- and again, this is a
20 discussion for all the Commissioners. This is just one
21 Commissioner speaking -- but have you applied for and
22 received pending live race dates. We have a request --
23 we're discussing whether to administer those or table
24 them for the reasons which have been discussed.

25 The second reason you must have is

1 conducting preopening simulcasting currently. There's
2 no simulcasting there, it's my understanding, right?

3 MR. LaMANTIA: No, that's correct.

4 CHAIRMAN SCHMIDT: Has demonstrated that
5 simulcasting or live racing is imminent. That's not
6 there yet.

7 MR. LaMANTIA: Correct.

8 CHAIRMAN SCHMIDT: And then hasn't posted
9 a bond. I mean, those are -- these are criteria I'm
10 looking at. So I guess my response to you is I think
11 you're on the right track. I actually would want to
12 encourage you to do this. And I think -- we don't have
13 a capacity problem in Laredo. I think the Commission,
14 in a properly structured deal, would look very, very
15 favorably about having one track and two race meetings
16 and a simulcast facility somehow shared. But as of
17 now, from my perspective, you don't meet the second set
18 of criteria, so it's almost irrelevant if you met the
19 race date criteria or not.

20 MR. LaMANTIA: Are those the only
21 criteria that --

22 CHAIRMAN SCHMIDT: Those are the criteria
23 that I'm looking at right here, yes, sir.

24 MR. LaMANTIA: I thought there was more,
25 more criteria. But that, I mean --

1 the active/inactive here in a moment.

2 CHAIRMAN SCHMIDT: Hopefully in 10
3 minutes.

4 MR. LaMANTIA: Okay.

5 VICE-CHAIRMAN EDERER: Question. As far
6 as the land itself, do you own the land in Laredo that
7 potentially could be the location of the track?

8 MR. LaMANTIA: The ownership that owns
9 the license does not currently own land in Laredo. It
10 had an option, and it had that option renewed several
11 times, and that option is currently gone. If that is a
12 concern, then I'll have you an option by the end of the
13 week on a piece of property, if that's a concern.

14 VICE-CHAIRMAN EDERER: The entity that
15 holds the license does not have the land, but you have
16 the capability of --

17 MR. LaMANTIA: Procuring the land,
18 securing it?

19 VICE-CHAIRMAN EDERER: Yes.

20 MR. LaMANTIA: Yes, we do.

21 VICE-CHAIRMAN EDERER: And would it be
22 adequate?

23 MR. LaMANTIA: In our opinion, it would
24 be, yeah, more than adequate.

25 VICE-CHAIRMAN EDERER: For what type of

1 track?

2 MR. LaMANTIA: Whatever type of track
3 that, you know --

4 VICE-CHAIRMAN EDERER: There's sufficient
5 acreage.

6 MR. LaMANTIA: Oh, yeah.

7 VICE-CHAIRMAN EDERER: But now, in the
8 Laredo area, there's no simulcast -- in fact, in the
9 whole -- other than in the Valley, it would be -- in
10 McAllen would be the only simulcast that presently is
11 going. Is that correct?

12 MR. LaMANTIA: No. That would be in
13 Harlingen and Corpus Christi would be the closest.

14 VICE-CHAIRMAN EDERER: Harlingen. I said
15 McAllen. I meant Harlingen.

16 MR. LaMANTIA: Yes, sir.

17 VICE-CHAIRMAN EDERER: There's nothing in
18 Laredo.

19 MR. LaMANTIA: No, sir. Other than right
20 across the river.

21 VICE-CHAIRMAN EDERER: Is that still
22 functioning?

23 MR. LaMANTIA: Last I heard, it was; but
24 I haven't been over there to check it out.

25 VICE-CHAIRMAN EDERER: Rightfully so.

1 Okay. The land that you have talked
2 about, would it be a place that simulcasts could be
3 established?

4 MR. LaMANTIA: Yes, sir.

5 VICE-CHAIRMAN EDERER: Relatively easy?

6 MR. LaMANTIA: I think so. I mean, it's
7 just a function of bricks and mortar and electric lines
8 and things like that. And we don't -- we have several
9 different ideas on where this should be. You talk
10 about my license -- excuse me, our license under LRP,
11 et cetera. And if that's a concern, we can get a piece
12 of property. Then I think we're dovetailing into the
13 idea of what we're jointly trying to do with the other
14 license holder. And so we've got some ideas on where
15 that should go, but it's very preliminary.

16 But wherever it was, if we brought it
17 before the Commission, it would obviously have to be
18 adequate enough in size to have the racetrack and it
19 would obviously have to be a facility where you could
20 get water, electricity, sewer, et cetera, for the
21 simulcasts.

22 VICE-CHAIRMAN EDERER: Right. I have a
23 problem with the comment this is in the preliminary
24 stage, very preliminary stage. I've been here for six
25 years and I've heard an awful lot of preliminary stages

1 that have never come to pass. What do you mean by
2 preliminary stages?

3 MR. LaMANTIA: We're just --

4 VICE-CHAIRMAN EDERER: Can you give me
5 some type of -- some idea as to how long this is going
6 to take before you'll even know if you can go forward?

7 MR. LaMANTIA: Well, we just began to
8 have these conversations with the other license holder,
9 so it's that new. Now we have to go out and get on the
10 ground and see what's available, things like that. So
11 I'm not in a position to tell you that we can have an
12 answer in two weeks, you know, two months, et cetera.
13 And it will be up to the Commission to measure, you
14 know, what we do and how we're doing it.

15 There's no question that you've heard a
16 lot of things. And I think we've demonstrated, when
17 you look at the three licenses, what we've been able to
18 do and want to do. And I don't want to forget -- or I
19 don't want the Commission to forget. We still plan on
20 and are going to submit the move for our license in
21 Laredo to Fort Worth, Tarrant County.

22 So it's been kind of the chicken and the
23 egg. I mean, I can't get up there, you know, and be
24 down here at the same time and spend money on both
25 places and buy a piece of property up there, buy a

1 piece of property down here, or option both, and back
2 and forth.

3 So this is a unique way, out-of-the-box
4 way, to maybe satisfy some of the issues that you may
5 have. At the same time understand that we still fully
6 plan to move it to Fort Worth, Tarrant County. So
7 that's kind of where we are.

8 VICE-CHAIRMAN EDERER: What does your --
9 the other license holder have to say?

10 MR. LaMANTIA: She's a whole lot better
11 and prettier than I am, so listen to her.

12 VICE-CHAIRMAN EDERER: We understand.
13 That's why we --

14 MS. YOUNG: You guys got sick of him?

15 Thank you. Andrea Young on behalf of
16 Laredo Race Park. I think I can probably help clear up
17 at least some of the questions that I'm hearing,
18 particularly from you, Commissioner Ederer.

19 You know, the thing -- we've gotten up
20 over the last couple of years -- and you'll hear this
21 when we talk about Laredo Race Park from me on the
22 active/inactive status. And we've actually had a lot
23 of good progress on alternative locations. We do
24 maintain an active option. Actually we renewed it
25 again last week in Laredo. So we've continued to do

1 that. We do have a piece of land.

2 I do agree the LaMantias have a lot of
3 ability to find additional land in Laredo. But we've
4 had our eyes on a particular site for a long period of
5 time. And what we -- and we believe it works within
6 the rules. We have not yet had the opportunity to sit
7 down with staff because, yes, the conversations are
8 preliminary. But it's probably the most cost-effective
9 way for us to get off the ground.

10 What we've lacked -- what we bring to the
11 table in this kind of possible partnership is a lot of
12 the operational expertise, both between our operations
13 in Texas at Sam Houston and, you know, obviously the
14 relationship with Penn Gaming.

15 What the LaMantias bring is obviously a
16 lot more political clout in the Valley than we have.
17 That has been my single biggest barrier to getting a
18 deal done in Laredo. And so I think, you know, the
19 partnership, we really complement each other's skill
20 sets and that's the idea.

21 It's also been difficult for us as a
22 license holder in Laredo to think, okay, is the license
23 going to be there, is it not, how much capital should
24 we invest, how much shouldn't we invest, not
25 understanding what the lay of the land is actually

1 going to look like. So therefore we've been hesitant.

2 The concept is pretty simple. We'd
3 identify -- we'd identify a location. There are a
4 couple, but obviously there's one in particular that
5 I'm focused on. We would work, I think, really over
6 the next, you know, 60 days to probably by the next
7 October meeting we could at least tell you, you know,
8 hey, this actually has some merit and we'll have been
9 in a position to talk to the staff and understand if
10 it's really moving forward or not.

11 I do support their request to have the
12 live dates granted for reasons, truthfully, for me,
13 kind of the chicken or the egg. You know, when I went
14 down this path and I did not apply for dates on Laredo
15 Race Park, the reason I didn't is because, you know,
16 typically over the last five years that I've been
17 involved in race date allocations, you can still come
18 in during the kind of working group period and make an
19 application for dates. We've had tracks do that
20 historically. So I kind of thought that that would be
21 the opportunity.

22 I understand the reasons that, you know,
23 the staff had some demands on them that they have
24 not -- you know, that we're not all ready like we hoped
25 to be at this point in time. So it's just it got a

1 little, I think, blurry, although unintended. And I
2 think, you know, as a stakeholder in Sam Houston Race
3 Park as well that obviously, you know, I do think
4 there's still a lot -- when you're planning dates far
5 out, there is an opportunity, like Mr. LaMantia said,
6 that, hey, we could end up moving these or tweaking
7 dates. I mean, that's typically not a very difficult
8 thing to do.

9 And look, I mean, at the end of the day,
10 this is about, you know, providing some racing
11 opportunities and that's what we'd really like to do.

12 And so I hope maybe that clears up some
13 of the questions.

14 VICE-CHAIRMAN EDERER: Is the property
15 that you are concentrating on, so to speak -- isn't
16 that the golf course?

17 MS. YOUNG: No. They actually ended --
18 one of the reasons my golf course deal fell apart was
19 ultimately the City Council there opted to go a
20 different direction and they just invested a bunch of
21 money in that golf course.

22 VICE-CHAIRMAN EDERER: So it's a
23 different location.

24 MS. YOUNG: Yeah. There is a couple of
25 areas in town where the county fair has some

1 significant operations.

2 CHAIRMAN SCHMIDT: Any other questions of
3 Mrs. Young, Mr. Moltz, or Mr. LaMantia from any of the
4 Commissioners?

5 Andrea, I would encourage you to -- I'm
6 very sensitive on this Commission that in the past
7 people have been told to think out of the box and that
8 issues have come that made that matter unsuccessful.
9 And so I think this is an encouraging development, I
10 think, thinking in ways in which you can help that
11 county and also build a track or a facility that is
12 appropriate in these economic times. I'd encourage you
13 to work carefully with the staff so there's no
14 misunderstandings and we'd certainly consider it with a
15 very open mind. Thank you for your comments.

16 MS. YOUNG: Okay. Thank you.

17 CHAIRMAN SCHMIDT: Jonathan, are there
18 any other public comments?

19 MR. SIERRA-ORTEGA: No, sir.

20 CHAIRMAN SCHMIDT: Any other discussion
21 from the Commission?

22 VICE-CHAIRMAN EDERER: Exactly what is
23 before the Commission right now?

24 CHAIRMAN SCHMIDT: I think staff has
25 recommended that we table the allocation of live race

1 dates until the October meeting. That's Mr. Jackson's
2 recommendation based on his earlier comments.

3 VICE-CHAIRMAN EDERER: Well, in light of
4 the comments that were just made concerning race dates
5 and the realization of the ability to come back in and
6 get race dates relatively easy, which was just referred
7 to, I think at this time I would recommend that the --
8 and would make a motion that the -- this be tabled
9 until the next meeting.

10 But before I say that, I mean, I'd like
11 to say also with the understanding that the Commission,
12 in my opinion, would be very open to looking forward to
13 race dates once, you know, we get a little further down
14 the road. I don't think there's going to be any
15 obstacles that I can see being put up, Mr. LaMantia, if
16 you come forward with something. I think that you're
17 not -- it doesn't sound to me like you're talking to
18 lenders, more to -- real estate people? I don't
19 understand who it is that it would be demanding to know
20 when the race dates would be.

21 MR. LaMANTIA: I don't know that anybody
22 is demanding to know when the race dates would be. It
23 just seems logical that that's one of the items that
24 you would be asked when you go to the city, the county,
25 or somebody like that, "When do you plan on doing

1 this?" And we can say, "Well, we have race dates
2 allocated," boom, you know. And we can say, "That may
3 or may not work. You know, they're subject to
4 change." But it just seems like that's a better
5 position than saying, "Well, we don't know yet. We'll
6 have to get back to you and get -- we have to go to the
7 Commission first."

8 VICE-CHAIRMAN EDERER: Thank you.

9 I move that we table.

10 CHAIRMAN SCHMIDT: Is there a second to
11 Commissioner Ederer's motion?

12 MR. POLUNSKY: I second.

13 CHAIRMAN SCHMIDT: Commissioner Polunsky
14 has seconded.

15 Is there any further discussion?

16 I would just echo your comments. I think
17 there are two issues here. I think the first issue is
18 we'd love to give race dates out.

19 VICE-CHAIRMAN EDERER: No question.

20 CHAIRMAN SCHMIDT: We don't want to
21 compromise the process, which is always a delicate
22 situation.

23 VICE-CHAIRMAN EDERER: And I think you
24 could represent to whoever you're talking to that we're
25 very anxious to give race dates.

1 CHAIRMAN SCHMIDT: We have contracted
2 race dates over the years.

3 So I think the second issue is I don't
4 think it's going to, at least from my perspective,
5 adversely affect the other discussions later this
6 afternoon, later this morning.

7 So any other Commissioners' comments on
8 that?

9 Okay. I'd certainly -- let's just bring
10 this to a vote then. All those in favor of the motion
11 to table the allocation of live race dates until the
12 October 2012 Texas Racing Commission meeting please
13 signify by saying aye.

14 COMMISSIONERS: Aye.

15 CHAIRMAN SCHMIDT: Anyone opposed?

16 Again, the motion is carried and the
17 discussion is tabled.

18 VICE-CHAIRMAN EDERER: I would like to
19 make one more comment. I certainly would encourage
20 that the horsemen get together and take care of their
21 part of this so that when we come October, we're not
22 going to run into the same problems of allocations and
23 this type of thing.

24 CHAIRMAN SCHMIDT: Thank you. I second
25 that comment.

1 Item B, a request by Saddle Brook Park
2 for approval of a temporary location under Texas Racing
3 Act 6.15. Mr. Fenner, can you lay this item out for
4 us, please?

5 MR. FENNER: Commissioners, we received
6 on July 16th a request by Saddle Brook Park for
7 approval of a temporary license to conduct simulcasting
8 at a temporary location. This is under Section 6.15 of
9 the Racing Act. And if you don't mind, I would like to
10 just briefly walk you through the staff report and the
11 highlights of it.

12 The requirements of the act say that a
13 license to conduct racing at a temporary location has
14 to meet two primary requirements. It has to be within
15 the same county as a racetrack's designated location
16 and the association must not have yet completed its
17 permanent racing facility. Now, this license is
18 limited to a period of two years. It cannot be
19 extended. Once the two years have expired, all racing
20 at that location must end.

21 We have analyzed these requirements in
22 light of Saddle Brook Park's application. They do meet
23 these requirements. The license was originally issued
24 in 1989. They have never built a permanent racing
25 facility, so they meet that leg of the requirement.

1 And they are -- the proposed location is also within
2 the same county as the designated location, that is,
3 Randall County. This proposed site is approximately
4 six miles from the permanent racing facility.

5 This permanent site would be provided
6 through a lease from Lynn Alexander. He is currently a
7 two and a half percent shareholder in Saddle Brook
8 Park. He is personally buying the property and will
9 lease it back to Saddle Brook Park. And the contents
10 or copies of the contract and the lease agreements are
11 in your materials.

12 Mr. Alexander has also completed the
13 background disclosure form and authorization that's
14 required of the lessor, and the Department of Public
15 Safety has conducted that background report and found
16 no disqualifying information. And that report is in
17 your materials as well.

18 The management and tote contracts. I
19 believe the management contract is in your materials.
20 The manager will be Magellan Gaming which is operated
21 by Mr. Corey Johnsen. Corey Johnsen is the former
22 general manager of Lone Star Park and who now presently
23 runs Kentucky Downs in Kentucky. For the tote
24 contract, they propose to use AmTote. AmTote currently
25 provides tote services for Lone Star Park and for

1 Retama Park.

2 Additional information that the applicant
3 provided in kind of an overview of what their goal is
4 is they want to be able to conduct simulcasting at this
5 facility for two years in order to build two things:
6 Purse monies for use at their own track and also
7 potentially for diversion to then use at other
8 racetracks in Texas, and also they want to be able to
9 gain access to capital for construction of the live
10 racing facility.

11 They have two approaches for doing that.
12 One is they hope to negotiate with the Texas Horsemen's
13 Partnership for a share of the purse money to apply
14 towards the construction costs. However, there is no
15 agreement in place yet with the Horsemen's
16 Partnership. They also hope to establish an income
17 stream from simulcasting that they can go to the banks
18 with and say, "Look, we can demonstrate that there's
19 income from simulcasting and it generates this much
20 revenue," and therefore support their loan
21 applications.

22 As part of this, they have not requested
23 live race dates yet. Their proposal is if you will
24 give them approval to conduct simulcasting at this
25 facility, they're going to immediately begin renovation

1 of this facility and they're simultaneously on this
2 agenda requesting that you open an application period
3 for October and November of 2014. That's a little
4 beyond the current application period that's on the
5 agenda.

6 So if you approve the temporary location,
7 they will ask that you approve an application period;
8 and then at the October meeting they will come back and
9 ask you to approve live race dates; and simultaneously
10 because they have live race dates at that point and
11 will have begun progress on their facility and hope to
12 open very quickly and staff will be up there to look at
13 it, they will ask you to change their designation to an
14 active-other status.

15 The temporary location is a stand-alone
16 building in Amarillo. It's in Randall County. It's
17 approximately six miles from the permanent facility.
18 It is, frankly, a former Sirloin Stockade. At one
19 point it became something called a Pecos Red's. So
20 it's a restaurant/bar that is currently shut down.
21 There are photographs of the facility in your
22 materials. It looks to be furnished already. So
23 they'll be opening up and making changes. I suspect
24 most of those substantial changes will be bringing in
25 the tote services.

1 Because it's an existing retail facility,
2 it already has parking. It already has ingress and
3 egress to the streets. I personally talked to the City
4 Attorney for the City of Amarillo and he assured me
5 that that location is zoned for general retail. In
6 fact, he sent me a letter to that effect. It's in your
7 materials. So it does not require any waivers or
8 exemptions. It's already zoned appropriately for a
9 simulcasting facility. And the licensee is already in
10 compliance with all criminal laws.

11 In your materials there are documents
12 showing the assets and liabilities of both Yellow Rose
13 Entertainment, which is doing business as Saddle Brook
14 Park, and then there's a statement regarding the
15 financial condition of Lynn Alexander who is
16 capitalizing this venture on behalf of Saddle Brook
17 Park.

18 They propose to conduct simulcasting from
19 Wednesday through Sunday, plus any Mondays that also
20 happen to be holidays. Corey Johnsen is a very
21 experienced operator of racetracks. I described the
22 issue of trying to get purse money to support
23 construction of the facility.

24 They have provided estimates of the cost
25 of building the facility and they've also provided some

1 general information about the type of permanent
2 facility that they're going to try and build. I mean,
3 they already own the designated location, which is west
4 of Amarillo. It's a 286-acre site. They've bought
5 it. They're going to propose a seven-furlong oval with
6 approximately 200 stalls and a 15,000-square-foot
7 facility. However, they're working on all of the plans
8 for that. They propose to submit that to the
9 Commission at a later date for approval.

10 The 200 stalls is, frankly, below the
11 rule required minimum, but that's going to require
12 approval by the Commission. So just because they've
13 put in here some generic information about what it is
14 that they're striving for, you're still going to have
15 an opportunity and the staff will have an opportunity
16 to look at the final construction plans before it's
17 built.

18 As we did with the proposal for a
19 simulcasting facility for Valle de los Tesoros, we
20 compared their application to the policy factors that
21 were identified in 1994 by a prior version of the
22 Commission. And I'll just walk you real quick through
23 those.

24 The first one is if the facility is not
25 contiguous, how far is it. It's approximately six

1 miles from the designated location.

2 The policy asks what is the unconditional
3 committed and declared use for the additional
4 property. It's simulcasting. They're not going to be
5 conducting any live racing there. They're going to use
6 it for simulcasting for two years to lead to a
7 permanent facility. And that addresses No. 3, which is
8 the length of time it will be used.

9 The fourth one is what is the extent to
10 which live races are capable of being conducted at the
11 racetrack. They have no facilities there at the
12 designated location on which to conduct live racing.

13 And the degree to which the planned use
14 of the facility directly relates to the ongoing
15 operations of the racetrack. So far I have not heard
16 anything about them containing -- continuing to use
17 this temporary simulcasting facility after the
18 permanent facility is built. I mean, it's possible
19 that they could later want to use it for training and
20 human resources type functions or having management
21 functions there or just operating it as a bar and
22 restaurant. But there will be no simulcasting there
23 and they haven't described anything like that in this
24 application.

25 No. 6 is what are the number and class of

1 other racetracks within a hundred miles. And there are
2 no other racetracks within that distance.

3 The extent to which the racetrack
4 requesting approval of the site expansion is in full
5 compliance with Commission rules. Well, I do want to
6 tell you that in 2010 they had live race dates and they
7 failed to run them. That's the big issue that pops to
8 mind is they have failed to run live race dates granted
9 to them before.

10 No. 8 is the estimated increase in
11 regulatory costs to the Commission. We don't
12 anticipate there will be any extra costs for regulating
13 the simulcasting facility. We're not going to have
14 anybody staffed there on a permanent basis. We may
15 have to send somebody up to check on it once in a
16 while, but that's the same as we do for Corpus
17 Christi's facility. We don't anticipate much cost at
18 all.

19 And then No. 9 is the policy says the
20 Commission will not approve a proposed site expansion
21 to include property that's not contiguous if it is more
22 than five miles from the boundary of the main racetrack
23 site. And this is more than five miles from the
24 boundary of the racetrack site. That is a policy
25 statement from '94. It's not a rule. So it's guidance

1 and you all get to decide whether to apply that in this
2 case or not.

3 Do you all have any questions? Yes,
4 sir.

5 MR. POLUNSKY: Is there any statutory
6 authority on this?

7 MR. FENNER: Yes, sir. 6.15 of the act
8 authorizes a temporary location. Now, the act defines
9 racing to include both live racing and simulcasting.
10 So it's my interpretation of the act that this is
11 authorized to do this, though, frankly, at the time
12 that this provision was put into the act, simulcasting
13 was not approved. So when it was originally adopted by
14 the Legislature and put into the original act, they
15 didn't anticipate this. But you may remember they did
16 some legislative history research before the Valle de
17 los Tesoros consideration and feel that it is something
18 that's within your discretion to approve.

19 MR. POLUNSKY: So you're referring to
20 legislative intent here? Is that what you're referring
21 to?

22 MR. FENNER: I hate to go down the
23 legislative intent road. It is something that was
24 never contemplated by the Legislature when it was
25 originally adopted.

1 MR. POLUNSKY: So there is no statutory
2 authority?

3 MR. FENNER: No, I believe that the
4 Commission has the discretion and the authority to
5 interpret the act in a way that permits this.

6 MS. O'CONNELL: The definition of racing
7 was changed subsequent to the original passage that
8 would allow the temporary location. So because the
9 definition changed, you're saying that the Commission
10 now has the legal authority to use the new definition
11 to interpret the old statute?

12 MR. FENNER: Yes, ma'am. That's very
13 well stated.

14 CHAIRMAN SCHMIDT: Any other questions?

15 COMMISSIONER WEINBERG: Could you clarify
16 the relationship between Drew Alexander and Lynn
17 Alexander?

18 MR. FENNER: They are brothers.

19 COMMISSIONER WEINBERG: And Drew is in
20 Amarillo and Lynn lives in Kentucky? Is that correct?

21 MR. FENNER: Yes, ma'am. And
22 Mr. Alexander and Mr. Johnsen are both here as well.

23 CHAIRMAN SCHMIDT: Jonathan, do we
24 have --

25 MR. SIERRA-ORTEGA: Yes, sir.

1 MR. ALEXANDER: Mr. Chairman --

2 VICE-CHAIRMAN EDERER: Just one second.

3 Excuse me.

4 MR. ALEXANDER: I'm sorry.

5 VICE-CHAIRMAN EDERER: Of course, we ran
6 into -- we discussed this before when Valle came
7 forward and made their presentation and we denied that
8 request. It's my understanding that the reason we
9 denied that request were twofold: One being it's the
10 location, the nearness to the dog track, and the second
11 was the distance from the property where they were
12 going to locate. Is that correct?

13 MR. FENNER: Well, I mean, you may --
14 there may be nine different reasons why you all
15 declined that.

16 VICE-CHAIRMAN EDERER: Right. But those
17 are two of them. Is that correct?

18 MR. FENNER: And one other item that came
19 to -- that was discussed was the fact that the Valle de
20 los Tesoros proposal did not lead to a permanent racing
21 facility.

22 VICE-CHAIRMAN EDERER: Right. Okay.
23 That's the difference in this one.

24 MR. FENNER: That is -- that is different
25 than this one.

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

3 Mr. Alexander?

4 MR. ALEXANDER: Mr. Chairman, I'm Lynn
5 Alexander. This is Corey Johnsen. We came before you
6 at your last meeting, by way of introduction, to tell
7 you who I was. I am Drew's brother. As I told you
8 then, he is incapacitated. He's here in spirit today.
9 And this is a fulfillment of his dream. And we need
10 this simulcast facility in order to move forward with a
11 racetrack.

12 And it, again, is -- it may be a little
13 bit different. We know we would be the very first ones
14 to do this. And we're real excited about that. We
15 have talked to all of the horsemen's groups and I think
16 you have letters from all of them. Since I was here we
17 said to you -- or I said to you we did not want to
18 overpromise, but we wanted to overdeliver, so that's
19 what we're here to do. We have been working extremely
20 hard to get all of this to you.

21 I would like to thank Mr. Fenner for his
22 guidance and for the staff for the preparation of what
23 you're looking at. And we would just ask you to vote
24 positive. We think we can put a lot of money in purses
25 and move forward and try to help the racing industry in

1 Texas. I don't think -- you know, there's nobody in
2 this room that doesn't know that we need all the help
3 we can get and that's what we're here to do.

4 I am a horseman. I've been racing for
5 20-some-odd years. I own a Thoroughbred horse farm.
6 I'm in the breeding business. I have horses racing.
7 And I love it. So this is a new move for me; but those
8 of us that enjoy the race business and the horse race
9 business, they all know that we need -- we need good
10 things to happen. And I think this is a good thing to
11 happen for Texas racing.

12 We're here to answer any questions that
13 you might ask. Mr. Johnsen might have some opening
14 remarks that he'd like to say. Or we're here to answer
15 questions.

16 MR. JOHNSEN: We're just here to answer
17 questions and look forward to continuing our work with
18 the staff to move forward and be a contributing member
19 of the Texas horse industry.

20 MR. ALEXANDER: I would like to address
21 Mr. Ederer's question of distance. If we could have
22 been one mile, we would have been. We looked all over
23 Amarillo for the right place. This is a good place.
24 It's from the -- it's two or three blocks off the
25 fourth busiest street in Amarillo. It has good access,

1 good egress, good degress. We could -- literally, if
2 we wanted to open a restaurant, we could unlock the
3 doors and fire up the cookers and open a restaurant.
4 But we've got to make it where we can see the
5 televisions and move things around and make it look
6 more like a simulcast facility as well as having food
7 and beverage there as well.

8 But this was the only location that's
9 available to us. And unfortunately, it is six miles.
10 But it is in Randall County and it would work very,
11 very well. Mr. Johnsen has been there two or three
12 times and brought some very professional people with
13 him that he is associated with from Lone Star Park and
14 they've looked at it. They think it's ideal. I wish
15 it was larger. But there's some things that we can do
16 to it to make it larger, some add-ons and things.

17 So again, I think that's the only thing
18 that is on there, that it is six miles instead of
19 five. So we would ask you to consider our request.

20 CHAIRMAN SCHMIDT: Any questions of
21 Mr. Johnsen or Mr. Alexander?

22 COMMISSIONER ABER: I would like to ask a
23 question. You came from Kentucky Downs. How many live
24 racing days did you all have?

25 MR. JOHNSEN: We have six this year and

1 then last year we had four.

2 COMMISSIONER ABER: Kind of down the line
3 what do you all plan on your live racing?

4 MR. JOHNSEN: If I could, I'd answer
5 that. It would be a minimal amount of live race
6 dates. We don't want in any way to take anything away
7 from the existing Class 1 tracks. And it would be a
8 collaborative effort, working with the horsemen's
9 groups, to come up with the right amount of race
10 dates. And, you know, it would be minimal at the start
11 because we want to make sure that we have good purses
12 and can attract the horses. And the horsemen may tell
13 us that they may want to use part of our money that we
14 generate to go to other tracks. We're open to all
15 those things. We're here to bring live racing and
16 simulcasting to Amarillo and we're here to contribute
17 to the industry.

18 CHAIRMAN SCHMIDT: Any other questions of
19 Mr. Johnsen? Commissioner Steen?

20 COMMISSIONER STEEN: Mr. Alexander?

21 MR. ALEXANDER: Yes, sir.

22 COMMISSIONER STEEN: I applaud your
23 efforts in putting this together. It looks like you've
24 assembled quite a team and have a comprehensive plan
25 here. If you were granted the temporary location,

1 obviously the eye is on achieving live racing. What do
2 you see as your biggest challenge to getting there from
3 this point?

4 MR. ALEXANDER: Well, I think just the
5 planning, John, and just it's going to require a lot of
6 work. But we've visited with Chairman Schmidt before.
7 I think he envisions the same thing that we do. We
8 don't envision a big monstrous building that's going to
9 get us financially in trouble. We envision a nice good
10 size. As you can see, we estimated a
11 15,000-square-foot facility.

12 And then with that, we would have very
13 possibly a football-like stadium type, maybe even rent
14 bleachers or something for these few live race dates.
15 And the simulcast facility that would be permanent
16 would be housing all of the racing events that would be
17 going on during live racing. And then there would be
18 tents and a picnic area and we would set up more of a
19 family deal because it's going to be -- you know, if we
20 get this open in October, just before the Breeders'
21 Cup, which is what our challenge is, then we would
22 probably have to have our race dates then no longer
23 than two years after that, so it would be more of an
24 Octoberfest.

25 You don't really want to have race dates

1 in Amarillo in the springtime because, you know, you
2 might not -- you know, the track may not be there the
3 day you show up. It may just be blown away. So you
4 just want to -- we think the fall would be beautiful.
5 It would be a good time for us to have race dates.
6 It's right before Breeders' Cup every year. And so if
7 we could have an Oktoberfest fair type race meet,
8 that's what we'd like to have.

9 MR. JOHNSEN: I've got a lot of
10 experience with temporary seating. And this
11 15,000-square-foot anchor building would provide us
12 with a great anchor, a great foundation for restrooms,
13 mutuel windows, food and beverage. And then there have
14 been so many advancements to temporary seating. You
15 know, I'm the person who was part of 35,000 temporary
16 seats at Lone Star Park when we hosted the Breeders'
17 Cup. And it's become economical, reasonable, and
18 there's a level of comfort that's fine. So it's a
19 family festival type setting and our plan, I think,
20 will do a great job with that.

21 The other thing I'm big on is taking
22 small steps before we take the large ones and working
23 within the industry. And I wouldn't want to be here
24 today and overpromise a large number of race dates in
25 2014 until we've been able to sit down with the

1 horsemen, understand the situation. I'd like to just
2 make sure that we have a minimal amount of race dates,
3 do it right, and then we can grow from there, a little
4 bit like our Kentucky Downs situation where we -- for a
5 number of years we only had four days. Well, now we
6 have more purse money, so we're going to six days, and
7 next year the horsemen want us to go to eight or 10
8 days. So you can see that you just kind of phase into
9 that. You don't stumble. And you make a positive
10 contribution to the industry.

11 VICE-CHAIRMAN EDERER: A Quarter Horse
12 facility or Thoroughbred?

13 MR. JOHNSEN: Mixed. It would be a
14 seven-furlong track and we would offer opportunities to
15 both breeds.

16 CHAIRMAN SCHMIDT: Mr. Johnsen, I had
17 just one question. In this economic environment I want
18 to compliment you fellows for developing this model.
19 It seems very reasonable. Is this similar to the model
20 that you used at Kentucky Downs? Is that a similar
21 pattern?

22 MR. JOHNSEN: Yes.

23 CHAIRMAN SCHMIDT: So in other words, in
24 addition to having an intuitive appeal, it does have
25 some validity from your experience in Kentucky?

1 MR. JOHNSEN: Yes. That's well put. It
2 definitely does. I learned a lot at Kentucky Downs and
3 I know that this type of situation will work.

4 CHAIRMAN SCHMIDT: Any other questions of
5 either Mr. Alexander or Mr. Johnsen from any of the
6 Commissioners?

7 MS. O'CONNELL: I do. I realize you
8 didn't have to have any zoning meetings, fortunately.
9 Given that, do you have any feel for how the community
10 is feeling about your plans and what the market will
11 be, that kind of thing?

12 MR. ALEXANDER: No, we do not. We do
13 not. Randall County did vote. I don't know the
14 numbers. I don't know what -- how closely it was. But
15 they did vote to have pari-mutuel wagering. The county
16 right next-door voted not to, which was Potter County.
17 So I do not have any -- we think -- we do know that in
18 New Mexico, the City of Tucumcari had an opportunity to
19 have a live race meet and simulcast and they voted it
20 down.

21 So we're excited about that because it
22 was a very close vote and so that just kind of opens
23 our territory. Tucumcari, New Mexico, is closer to
24 Amarillo than it is to Ruidoso, New Mexico. So we
25 think we'll be successful with drawing those people.

1 As far as Liberal, Kansas, there's nothing north of
2 Amarillo from Amarillo, Texas, to Liberal, Kansas. All
3 of those people will be coming to Amarillo for racing
4 and simulcasting. And there's a lot of horse people in
5 that area. I don't expect -- I'm sure that we'll have
6 some people that won't be happy about it, but I think
7 we'll have a lot of people that will be.

8 MR. JOHNSEN: If I could add to that.
9 Our goal and really our foremost goal is to have a
10 safe, secure, clean facility for our patrons. And
11 that's number one in everything we're going to do. So
12 we're going to make sure that we have a safe
13 environment and that it's run properly. There's a
14 number of things that we're going to do. We're going
15 to make sure we budget the right amount of money for
16 that effort.

17 Also, to get a feel for the market, we've
18 spent a lot of time with the AQHA and we feel like they
19 have -- they have a good indication of the pulse of the
20 community, the overall pulse, and they just think it's
21 going to be fantastic. There isn't a tremendous amount
22 of entertainment options in Amarillo. There's not any
23 options for pari-mutuel wagering for over a hundred
24 miles.

25 So we're very enthusiastic about our

1 potential level of business. There's going to be a lot
2 of education that's going to go on. We're going to
3 spend a lot of money and time on fan education. But we
4 think if you combine all those strategies that we can
5 be very successful and be welcomed by the community.

6 CHAIRMAN SCHMIDT: Any other questions
7 from anyone?

8 Thank you, gentlemen.

9 MR. ALEXANDER: Thank you very much.
10 Appreciate it.

11 CHAIRMAN SCHMIDT: Any other public
12 comment?

13 Just for the record, Marsha Rountree from
14 the Texas Horsemen's Partnership and Mary Ruyle from
15 the Texas Thoroughbred Association have submitted
16 information that they support this proposal, as has
17 Dr. Farris also of the Texas Thoroughbred Association.
18 He's written the Commission.

19 Any further discussion by any of the
20 Commissioners?

21 VICE-CHAIRMAN EDERER: I'd like to make a
22 motion.

23 CHAIRMAN SCHMIDT: Yes, sir.

24 VICE-CHAIRMAN EDERER: I make a motion
25 that we approve the Saddle Brook -- the Saddle Brook

1 request for a temporary location.

2 CHAIRMAN SCHMIDT: Vice-Chair Ederer has
3 made a motion to approve the Saddle Brook Park request
4 for approval of a temporary location.

5 Is there a second to that motion?

6 COMMISSIONER HICKS: I'll second it.

7 CHAIRMAN SCHMIDT: Seconded by
8 Commissioner Hicks.

9 Any further discussion?

10 All those in favor signify by saying
11 aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN SCHMIDT: Anyone opposed?

14 Okay. It's approved and the motion
15 carries.

16 And then moving directly to the next
17 item, a request by Saddle Brook Park to designate an
18 application period, not race dates but an application
19 period, for race dates under Rule 303.41. This is for
20 2014, right, Mark?

21 MR. FENNER: Yes, sir.

22 CHAIRMAN SCHMIDT: Okay. I think you've
23 laid that request out. They would just like to have an
24 application period for race dates in October and
25 November of 2014 which could be discussed at the

1 October meeting if approved, right?

2 MR. FENNER: Yes, sir.

3 CHAIRMAN SCHMIDT: Any public comment,
4 any additional public comment?

5 Any discussion by any Commissioners?

6 I'd certainly entertain a motion to
7 approve --

8 VICE-CHAIRMAN EDERER: Excuse me.
9 Wouldn't this also help facilitate Mrs. Young and
10 Mr. LaMantia as far as their project is concerned by
11 opening up the race dates?

12 MR. FENNER: They could certainly apply
13 for race dates during those -- that time period as
14 well.

15 CHAIRMAN SCHMIDT: Sure.

16 Any other comments or questions?

17 Okay. Then there's a motion -- I'll
18 certainly entertain a motion to approve Saddle Brook
19 Park's request to open an application period -- to open
20 an application period for live race dates in October
21 and November of 2014.

22 Is there a motion?

23 VICE-CHAIRMAN EDERER: So move.

24 CHAIRMAN SCHMIDT: A motion is made by
25 Commissioner Ederer.

1 Second?

2 COMMISSIONER WEINBERG: Second.

3 CHAIRMAN SCHMIDT: Seconded by

4 Commissioner Weinberg.

5 All those in favor signify by saying
6 aye.

7 COMMISSIONERS: Aye.

8 CHAIRMAN SCHMIDT: Anyone opposed?

9 The motion carries.

10 Okay. Let's move on to designation of
11 active and inactive racetrack licenses under Texas
12 Racing Act 6.0601 and Commission Rule 309.51. Mark,
13 can you briefly bring us up to date? We've kind of
14 worked through this a little bit.

15 MR. FENNER: Sure. Yes, sir. I think
16 that you all are all very familiar with the brand-new
17 Rule 309.51 regarding the designation of racetracks as
18 active or inactive. The Racing Act and its
19 instructional provisions require that the Commission
20 designate each racetrack as active or inactive by
21 September 1, 2012.

22 And from pulling together material, we
23 created a designation form based on the rule and
24 provided it to each of the racetracks and asked them to
25 complete it and submit it and turn it in. And we've

1 included their materials, as well as a copy of the
2 rule, in the packet for your review.

3 If I can briefly go over the criteria to
4 be designated as each. An active-operating track under
5 the rule must have conducted live racing events at the
6 racetrack during the previous State fiscal year and
7 have been granted future live race dates. And at the
8 bottom of page IV-D-1 we've identified the tracks that
9 meet that criteria.

10 To be designated as active-other, the
11 license holder must meet a basic two-prong test and one
12 of those prongs has three prongs to it. First, they
13 must have applied for and received pending live race
14 dates; and second, they must have demonstrated that
15 live racing is -- well, they must have taken one of the
16 following actions to demonstrate good faith efforts to
17 conduct live racing. And that's to either be presently
18 conducting preopening simulcasting, to have
19 demonstrated that the conduct of simulcast or live
20 racing is imminent, or voluntarily provided a bond to
21 ensure that they begin simulcasting and complete the
22 allocated live race dates.

23 In the materials on page IV-D-2 and
24 IV-D-3, we've walked through the status of each of the
25 remaining racetracks. Of those, two have live pending

1 race dates already. That's Gulf Coast Racing and Valle
2 de los Tesoros. Of those, Gulf Coast is presently
3 conducting preopening simulcasting. As to the
4 remainders, you know, none of them have offered to
5 provide a bond, so the question is really have they
6 demonstrated the conduct of simulcast or live racing is
7 imminent and that's a decision only you all can make.

8 CHAIRMAN SCHMIDT: Thank you, Mark.

9 Any questions of our attorney,
10 Mr. Fenner?

11 Okay. Any public comment? Are there any
12 representatives from any of the racetracks who would
13 like to speak? Mr. Moltz?

14 MR. MOLTZ: Yes, Mr. Chairman,
15 Commissioners.

16 With respect to the interpretation of
17 this rule and where this seems to be going, as you
18 know, especially Commissioner Ederer, you know, we --
19 and Commissioner O'Connell, we participated in the
20 rules committee to a great degree and we had many
21 discussions back and forth. And the point that we had
22 made, and others, not just us, was the need for
23 discretion among this Commission to look at what a
24 track is actually doing, where things are going, how
25 it's impacting the industry, and all of these things as

1 part of is this track making good faith efforts.

2 Some of the initial drafts that came out
3 of this rule had very concrete do this, do that, do
4 that. That was discussed at great length in these
5 meetings. And as I recall, there was discussion on the
6 Commissioners that language was added, this "Factors
7 the Commission may consider include, but are not
8 limited to, the license holder's" and then it lists
9 these various things, that that was put in there to
10 give this discretion to this Commission. And as I
11 recall, Commissioner Ederer was saying that there would
12 be situations where other things would need to be
13 considered and this was to put that discretion in
14 there.

15 What I seem to be hearing here this
16 morning from Mr. Fenner and Chairman Schmidt with your
17 discussion previously is a concrete three-prong test
18 with no discretion. You either have to have preopening
19 simulcasting or having horses or dogs out there running
20 has to be happening within the next very short period
21 of time, that this racing is imminent, however you want
22 to define imminent. And that is my -- quite contrary
23 to my understanding of how this was going to be
24 handled.

25 And whether or not this rule complies

1 with the statute, which says -- and I'll remind the
2 Commissioners that an active track is a track that is
3 either actually running races or has made good faith
4 efforts toward live racing.

5 It doesn't seem to me that what we're
6 talking here or where this is going or based on
7 Mr. Fenner's description of this rule here that good
8 faith efforts really has anything to do with it, that
9 either you're doing this or you're inactive. And I
10 would submit our objection to that reading of this
11 rule, that the language "Factors the Commission may
12 consider include, but are not limited to," was put in
13 there specifically to give this Commission discretion,
14 to consider other factors, to consider what's going on,
15 to hear the story behind each one of these racetracks,
16 not to have a form with check boxes on it that if you
17 don't check the right boxes that you're inactive, which
18 we do not believe that is what the statute requires and
19 that we believe that that interpretation of this rule
20 does not comply with the statute.

21 Now, that's just sort of a general
22 overview of where I can see this going. With respect
23 to specific tracks here, Gulf Coast Racing -- and
24 Ms. Sally Briggs is here and can get into much more
25 detail. They are conducting simulcasting. And I'll

1 defer to Sally to get into greater detail about what
2 else they're doing and what the status of live racing
3 is.

4 With regard to Laredo Downs, to the
5 extent this is a checklist and the first thing on the
6 checklist is live race dates, I believe you all
7 answered that 30 minutes ago, which although we don't
8 agree with that interpretation of this, we seem to have
9 a checklist here. Regardless of the good faith efforts
10 that LRP Group, Limited, has put into this thing, they
11 didn't check one of the boxes right.

12 With regard to Valle de los Tesoros, they
13 did come before this Commission wanting to do exactly
14 what Saddle Brook Park has now been approved to do, it
15 was rejected, and have done other things. And beyond
16 that, I'll leave it to Mr. LaMantia to get into the
17 details of all the things that they have done.

18 But I will defer first to Ms. Briggs to
19 discuss what's going on at Gulf Coast unless there's
20 some questions by the Commissioners.

21 CHAIRMAN SCHMIDT: Are there any
22 questions of Mr. Moltz?

23 VICE-CHAIRMAN EDERER: Maybe later.

24 CHAIRMAN SCHMIDT: I just have one
25 question, Mr. Moltz. Your objections are duly noted.

1 And certainly any Commissioner here can interpret
2 this -- what constitutes good faith. I mentioned that
3 I was speaking for myself and the way I interpret it.

4 I would say, though, just for the record,
5 when you state "racetracks," in fact, there are no
6 racetracks, correct? You're talking about racetrack
7 corporations.

8 MR. MOLTZ: I'm talking about the
9 association as defined in the statute.

10 CHAIRMAN SCHMIDT: But in the three
11 tracks you mentioned, other than Gulf Coast --

12 MR. MOLTZ: Gulf Coast has a racetrack.

13 CHAIRMAN SCHMIDT: -- there are no
14 tracks. Okay. Thank you.

15 Ms. Briggs?

16 MS. BRIGGS: Good morning,
17 Commissioners. Sally Briggs, general manager at Gulf
18 Greyhound Park and Gulf Coast Racing.

19 The main concern that we would have at
20 Gulf Coast Racing would be a shortage of greyhounds.
21 If you all will recall, I believe last November of 2011
22 we were forced to cancel one of our performances. We
23 were running six performances and canceled our Saturday
24 matinee because we did not have enough greyhounds to
25 run that matinee.

1 And hopes that we could bring that
2 performance back sometime in the near future did not
3 happen because we still do not have enough greyhounds.
4 We do have a shortage of greyhounds. We fortunately
5 are able to run our five performances that we are
6 running now. But I do not foresee in the near future
7 at all -- we have looked for a kennel to bring in even
8 from another state and have not even been able to find
9 one that would be willing to come in.

10 And I think this is a problem not just in
11 Texas. It's across the country. And of course, that
12 also brings up Texas-bred. There are not enough
13 Texas-breds to comply with the rules that are in force
14 now. So that is our main concern right now is having
15 enough greyhounds to run another performance at Gulf
16 Greyhound, much less full performances at Gulf Coast
17 Racing.

18 CHAIRMAN SCHMIDT: Any questions of
19 Ms. Briggs?

20 MS. BRIGGS: Thank you.

21 CHAIRMAN SCHMIDT: Thank you.

22 Any other public comment, Jonathan?

23 MR. SIERRA-ORTEGA: No, sir.

24 MR. LaMANTIA: I'm just here if you want
25 to ask any questions about VDLT, the McAllen track. We

1 filled out the paperwork, sent it in. There's been a
2 change in the political scene over there, so it looks
3 better from getting the utilities there. And I guess
4 there's just a huge disagreement on how you interpret
5 the statute and what you all have the discretion to do
6 or not do.

7 And so I'm here to answer any questions
8 you've got.

9 VICE-CHAIRMAN EDERER: As far as the
10 simulcast is concerned, there were a number of reasons
11 why the request was denied a couple of years ago,
12 whenever it was. Have you completely dropped that
13 project?

14 MR. LaMANTIA: Well, until today I have.
15 I spent time, money, effort, and --

16 VICE-CHAIRMAN EDERER: We know that you
17 did.

18 MR. LaMANTIA: At the request of the
19 Commission. And got, forgive me, but, you know, poured
20 out. You know, now it's a different day. It's a new
21 day. I understand that. So we'll re-look at it.

22 VICE-CHAIRMAN EDERER: Your location, you
23 own the property there.

24 MR. LaMANTIA: Yes, sir.

25 VICE-CHAIRMAN EDERER: And that property,

1 as I understand it, is just south of McAllen?

2 MR. LaMANTIA: That is correct.

3 VICE-CHAIRMAN EDERER: How far is it away
4 from the dog track?

5 MR. LaMANTIA: I'm going to guess, but I
6 would guess something like, as a crow flies, probably
7 30 miles, 40 miles, something like that. Something
8 like that.

9 VICE-CHAIRMAN EDERER: As far as where
10 you own the property now, do you have a facility that
11 you could put in simulcasts?

12 MR. LaMANTIA: We could build a facility
13 there subject to the utilities, which I just
14 mentioned. But it makes more sense, when we first set
15 out on that project, to put it at a location like
16 Amarillo is looking at that has more traffic and would
17 be more viable potentially to drive simulcasting at a
18 higher rate than the current facility. Not that -- I
19 mean, not facility. The current land, the 200 acres
20 that we own. There's more traffic there now.

21 Now, the land we own is a great place to
22 have a racetrack and everything else; but if you're
23 only going to have simulcasts to start with, it makes
24 more sense to go in a more populated, heavier traffic
25 area.

1 VICE-CHAIRMAN EDERER: One of the
2 problems with that area was that you would kill the
3 other track.

4 MR. LaMANTIA: That was a discussion,
5 that is correct. And it's up to you all to decide
6 whether that's worthwhile or not. But I don't want to
7 get into the difference of opinion in that.

8 VICE-CHAIRMAN EDERER: I understand.

9 MR. LaMANTIA: It is what it is.

10 VICE-CHAIRMAN EDERER: But if you were to
11 put up a facility, a temporary facility for simulcasts
12 at the present location which you own, would the same
13 problem still be there or --

14 MR. LaMANTIA: I would assume that the
15 Harlingen track would still say it's going to hurt
16 them. I would assume they would say that.

17 VICE-CHAIRMAN EDERER: But it's
18 considerably further down the road.

19 MR. LaMANTIA: You know, it's more a
20 north-south issue than an east-west issue. Where we
21 had proposed it would have been north of our facility
22 and not any further to the east. So I don't know
23 that -- there would be very little difference in, as a
24 crow flies, distance because Harlingen is obviously
25 east of McAllen and we were moving north. But I'm not

1 sure -- and that's, you know --

2 VICE-CHAIRMAN EDERER: Okay.

3 MR. LaMANTIA: Any other questions?

4 CHAIRMAN SCHMIDT: Any other questions?

5 Thank you.

6 MR. LaMANTIA: Uh-huh.

7 CHAIRMAN SCHMIDT: Okay. Any comments or
8 questions by any Commissioners?

9 MS. O'CONNELL: I think just as far as
10 the interpretation of the statute goes that the statute
11 does give the Commission the authority to define good
12 faith efforts and it talks about what conduct would be
13 a good faith effort.

14 I think a lot of the discussion in the
15 latter part of the committee meetings was whether or
16 not the statute required some kind of way to get an
17 active designation that required the Commission to use
18 discretion. And so that's where the prong that relates
19 to imminent comes in, whether live racing or
20 simulcasting is imminent.

21 And the way that we discussed in the
22 committee meetings that that would be presented is that
23 the tracks would be able to come and make their case
24 and state all the reasons why that should be considered
25 imminent. And that's why we made kind of a laundry

1 list of things that could be considered but were not
2 limited to.

3 And that's why the form -- although it
4 does have some check boxes for some of those suggested
5 ways that you could show imminent, there's a free form
6 part of the form where you can put in everything and
7 the kitchen sink to show why imminence has been met.

8 So I think that's the place where we have
9 some bright line ways that someone can meet an
10 active-other designation, but we also have some more
11 open discretionary ways.

12 CHAIRMAN SCHMIDT: Thank you.

13 VICE-CHAIRMAN EDERER: In other words,
14 we're not locked into this form, the little boxes that
15 you check. I know I'm very encouraged by the position
16 that's being taken by the two tracks in Laredo. As far
17 as that future, I think they're definitely showing
18 progress. Now, whether or not that progress is
19 sufficient to be designated as active-other is yet to
20 be determined by the Commission. But as far as -- it
21 appears there are three tracks that we're -- three
22 licenses that we are concerned about primarily?

23 CHAIRMAN SCHMIDT: I would say that each
24 Commissioner has their own list. I would say that
25 there are six licenses that concern me. But it might

1 be three for you and it might be none. I'm not sure.

2 VICE-CHAIRMAN EDERER: I understand. I
3 understand.

4 CHAIRMAN SCHMIDT: Yes, Commissioner?

5 COMMISSIONER ABER: They could put up a
6 bond. I know that they haven't and they don't have to,
7 but they could put up a bond to facilitate that.

8 MS. O'CONNELL: That is correct. If a
9 track did not have enough to show -- had not had enough
10 progress to show that imminent simulcasting or live
11 racing were going to occur and thought that their
12 progress was going to be at a slower pace and they
13 still wanted an active designation, there still is a
14 third way to obtain that status and that is by
15 voluntarily putting up the bond.

16 And so no track exercised that option,
17 but that option is there. And of course, the rest of
18 the -- another part of the statute says that the
19 designation can be revisited at any time. So it's not
20 like if you receive a designation today that is not
21 what you had hoped to get, it can be -- it can be
22 revisited at any time with new information or new
23 choices on how to obtain the other designation.

24 CHAIRMAN SCHMIDT: I think the comment
25 there was certainly as the situation changes, the

1 definition of imminent becomes more clear or more
2 precise.

3 VICE-CHAIRMAN EDERER: Mr. Moltz, is
4 there -- I don't understand the reason why there seems
5 to be such a strong feeling by the various license
6 holders as to whether or not to be designated as
7 active-other or inactive. Given the situation that's
8 just been described that once there is any activity
9 that has shown, you know, some true intentions on the
10 part of the license holder to go forward with the
11 designation -- excuse me, with the simulcast or live
12 racing, I think that this Commission is going to be
13 very anxious actually to take the matter up.

14 Yes, sir?

15 MR. LaMANTIA: I'm not sure I heard all
16 of that, if it was a question.

17 VICE-CHAIRMAN EDERER: Well, it was to
18 Mr. Moltz. I guess the question would be as to why the
19 urgency? Why the -- what is the problem with being
20 designated inactive or active-other given the comments
21 that have been made, given what we discussed at the
22 rule committee, given the attitude, I think, of all the
23 Commissioners? That is, we're anxious to go forward if
24 we can see some progress.

25 For six years I've sat here and I keep

1 hearing the same thing over and over and over. Now I
2 think it's being more fine-tuned. And what you did
3 before I think was very positive and I really like what
4 you're saying that you and Mrs. Young have been
5 discussing. These things are different. This is new.
6 This is what we've been wanting to see for a long
7 time.

8 MR. LaMANTIA: If we agree that you have
9 the discretion to take in other factors, then it seems
10 a more positive statement active-other than inactive.
11 And I would ask what is the difference in putting us --
12 if you say why not go inactive versus active-other, why
13 do we push towards active-other, what's the downside to
14 active-other from this Commission's standpoint?

15 I mean, look at what we've done in Corpus
16 Christi. I think we've shown that we have been able to
17 help the industry and employ people. And I guess
18 under -- what I understand the rules are as Mr. Fenner
19 pointed out, it would be inactive. But with the
20 discretion point of view, I would think the Commission
21 would say they have done something there. They have
22 helped the industry.

23 MS. O'CONNELL: The downside to
24 active-other from the Commission's point of view is
25 that once you're designated active-other, the

1 Commission reviews your license only every five years
2 for ownership and management; and with an inactive
3 license, the Commission reviews it with different
4 criteria every year; and that's what seems more
5 appropriate if a project is preliminary or in the very
6 early stages and needs a lot of Commission involvement
7 to help it go forward.

8 MR. LaMANTIA: Help me understand. Where
9 is the downside to the Corpus Christi track if you only
10 reviewed it every five years and we continue to
11 simulcast?

12 MS. O'CONNELL: Well, the Corpus Christi
13 track has live race dates and is simulcasting. So that
14 question is not -- that's not the question for that
15 track, it's my understanding.

16 MR. FENNER: I did not mean to give any
17 impression that I thought that Corpus Christi would be
18 designated as inactive. It's not my call.

19 MR. LaMANTIA: And the reason for that is
20 because?

21 MR. FENNER: It has live race dates and
22 it is simulcasting.

23 MR. LaMANTIA: And as far as the other
24 good faith efforts on -- I can only speak for the other
25 two tracks that we're involved in. For those good

1 faith efforts you can't -- you feel like it's better to
2 take the resources -- even though we think we've shown
3 good faith, i.e., back to talking about McAllen doing a
4 simulcast facility, that was denied and I'm sitting
5 here, okay, wait, we're asked to do something, we come
6 and try, it's denied, and so now you're inactive. Help
7 me.

8 MS. O'CONNELL: I think the question is
9 how far along are you. And the analogy that kept
10 coming up in the committee meetings was like graduating
11 from high school. You know, you might, when you're a
12 freshman, be passing your grades, but you're not quite
13 ready to order your graduation gown and your
14 invitations to graduation.

15 MR. LaMANTIA: I didn't get that far.

16 MS. O'CONNELL: But if you're a first
17 semester senior or a second semester senior, it's
18 pretty clear that you're -- based on the success that
19 you've already had and shown and demonstrated that
20 you're going to be able to get to that point.

21 So I think that the intention with the
22 Commission in defining that is that, you know, people
23 that are up and running are clearly going to be active,
24 but we also wanted to -- if people were -- if tracks
25 were so close and they were at the racetrack equivalent

1 of, you know, a first semester senior, we wanted to be
2 able to give them the active designation and so that's
3 why the active-other was created as far as the prong
4 that relates to imminence or to getting up and doing
5 simulcasting.

6 MR. LaMANTIA: Just for my purposes so
7 that I understand it -- and I don't know that Bill
8 Moltz would agree or not. But I would ask Mr. Fenner,
9 is that correct, that once you're voted active or
10 active-other, then you're not reviewed for a five-year
11 period regardless of what happens?

12 MR. FENNER: That's the scheme that's set
13 out in the statute and the rules. Active racetracks
14 only have an ownership and management review every five
15 years. Now, if there is an issue, that doesn't
16 prevent -- say a track is designated as active and then
17 fails to run its live race dates. That racetrack will
18 be brought back to the Commission and the Commission
19 would have the option to redesignate it as inactive.
20 But as long as it maintains an active designation, it's
21 a five-year ownership and management review.

22 MR. LaMANTIA: And that would be the same
23 for active-other?

24 MR. FENNER: Yes.

25 MR. LaMANTIA: Okay. Okay. So you could

1 have a -- you could have a racetrack in active-other
2 and then you have the discretionary part because it was
3 imminent and then -- look, I won't argue the legal side
4 because I'm not -- I mean, you're much better at that
5 than I am.

6 I just think you all have the
7 discretion. I think from our opinion it's outside of
8 what the statute says, but you all have discretion to
9 do what you all think is best. And if you're showing
10 progress, I think you should take that into account.
11 And I'm here to answer any questions on any of the
12 three racetracks that we have that I'm involved in.

13 MS. O'CONNELL: I just wanted to make
14 sure that you know that there was another avenue for
15 your tracks to get an active-other designation and
16 that's the bond.

17 MR. LaMANTIA: I've been down that road.

18 MS. O'CONNELL: And that's all
19 voluntary. But I just want to make sure that you know
20 that that avenue is available.

21 MR. LaMANTIA: I understand. I
22 appreciate that. If the bond was 10 bucks, I'd post
23 it.

24 Any other questions?

25 CHAIRMAN SCHMIDT: Any other questions?

1 Thank you, Mr. LaMantia.

2 MR. LaMANTIA: Thank you.

3 CHAIRMAN SCHMIDT: Appreciate it.

4 Any other questions by any of the
5 Commissioners?

6 Okay. I think we ought to move forward.
7 I guess I'm going to suggest a motion; and if any of
8 the Commissioners disagree, please feel free to do so.
9 Let's first take the tracks which I think will create
10 no discussion or very little discussion.

11 I'd certainly entertain a motion to make
12 the following designations of racetrack licenses
13 effective September 1st, 2012, active-operating,
14 Gillespie County Fair, Gulf Greyhound Park, Lone Star
15 Park, Retama Park, Sam Houston Race Park, Valley Race
16 Park, and active-other Gulf Coast Racing.

17 Are any of the Commissioners interested
18 in making a motion?

19 MS. O'CONNELL: So moved.

20 VICE-CHAIRMAN EDERER: Second.

21 CHAIRMAN SCHMIDT: There's been a motion
22 made by Commissioner O'Connell and seconded by
23 Commissioner Ederer.

24 Any further discussion?

25 All those in favor signify by saying

1 aye.

2 COMMISSIONERS: Aye.

3 CHAIRMAN SCHMIDT: All those opposed?

4 Okay. That carries.

5 And then so we have the remaining tracks,
6 which are Valle de los Tesoros, Laredo Downs, Laredo
7 Race Park, Longhorn Downs, Manor Downs, and Saddle
8 Brook Park. Do any Commissioners have any input or any
9 discussions about anything that's been said today about
10 those tracks? I would also encourage you to
11 re-review --

12 VICE-CHAIRMAN EDERER: Again, the tracks,
13 please.

14 CHAIRMAN SCHMIDT: Valle de los Tesoros.

15 VICE-CHAIRMAN EDERER: Okay.

16 CHAIRMAN SCHMIDT: Laredo Downs and
17 Laredo Race Park.

18 VICE-CHAIRMAN EDERER: Okay.

19 CHAIRMAN SCHMIDT: Longhorn Downs, the
20 Austin Jockey Club issue; Manor Downs; and Saddle Brook
21 Park. I think that covers all our tracks.

22 MR. FENNER: Yes, sir.

23 CHAIRMAN SCHMIDT: So we need to consider
24 if they want to be active-operating, active-other, or
25 inactive, recognizing this is a process. We can change

1 these designations at any time if their criteria
2 changes as well -- not if the criteria changes, but if
3 progress changes.

4 Does anyone have any thoughts or
5 recommendations regarding those tracks?

6 MS. O'CONNELL: So live race dates are
7 required in order for all of these tracks to be
8 designated active-other, and five of the six tracks
9 that you just listed do not have live race dates.

10 MR. FENNER: Right.

11 MS. O'CONNELL: So those five cannot be
12 designated active-other and they are not
13 active-operating.

14 So I move to designate Laredo Downs,
15 Laredo Race Park, Longhorn Downs, Manor Downs, and
16 Saddle Brook Park as inactive.

17 CHAIRMAN SCHMIDT: Okay. So there's a
18 motion made by Commissioner O'Connell to designate
19 Laredo Downs, Laredo Race Park, Longhorn Downs, Manor
20 Downs, and Saddle Brook Park as inactive.

21 Is there a second to that motion?

22 COMMISSIONER STEEN: I'll second.

23 CHAIRMAN SCHMIDT: Commissioner Steen has
24 seconded that.

25 Any further discussion about those

1 tracks?

2 Okay. All those in favor of the motion
3 signify by saying aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN SCHMIDT: Anyone opposed?

6 Okay. The only track that remains out
7 there is Valle de los Tesoros. Has applied for and
8 received pending live race dates, is not presently
9 conducting simulcasting. We've had discussions about
10 that earlier.

11 Do any Commissioners have any comments
12 about Valle they'd like to share with us?

13 Is there a motion?

14 Mark, just to be certain, an active-other
15 designation means you're reviewed every five years. Is
16 that right?

17 MR. FENNER: Yes, sir.

18 CHAIRMAN SCHMIDT: Okay. Any further
19 motions or comments?

20 COMMISSIONER ABER: You know, I would
21 think maybe they could have an active-other if they
22 want -- they want the race dates and they want the live
23 dates. How much is a bond if they put up a bond?

24 VICE-CHAIRMAN EDERER: The bond is going
25 to cost about two percent at least.

1 COMMISSIONER ABER: Two percent of what?

2 VICE-CHAIRMAN EDERER: 400,000. So
3 you're talking \$40,000.

4 CHAIRMAN SCHMIDT: How much is a bond,
5 Mark?

6 MR. FENNER: Well, the bond that's an
7 option in the rule is \$400,000. Now, the live race
8 dates they have granted are in August of 2012. They
9 have six live race dates granted to them. And so it's
10 going to be an issue of whether or not they run the
11 live race dates. So while they have a five-year review
12 as long as they are active-other, if they fail to run
13 the live race dates, they will have to come back to the
14 Commission within four months to explain and you'll
15 have an option to redesignate. That's the way the
16 process works.

17 CHAIRMAN SCHMIDT: Another perspective
18 could be you take the bond money and build a simulcast
19 facility on your property and that would solve the
20 issue.

21 COMMISSIONER ABER: But we have -- if
22 they don't do these live race dates -- and they're
23 August, this month, huh?

24 MR. FENNER: August of -- I'm sorry.

25 COMMISSIONER ABER: You said 2012.

1 MR. FENNER: I'm sorry. I did say '12.
2 But '13.

3 COMMISSIONER ABER: So that's not a real
4 downside. If they don't do it, then we can put them
5 back to inactive, right?

6 CHAIRMAN SCHMIDT: Yes, sir.

7 COMMISSIONER ABER: And what you're
8 suggesting is to take the -- to build the simulcast
9 instead of putting up a bond?

10 CHAIRMAN SCHMIDT: No. I was just
11 speaking. I was spending other people's money.

12 MS. O'CONNELL: We can't tell them what
13 to do. But the only way that their license is before
14 us right now is for us to determine -- since they have
15 live race dates, the only question for each
16 Commissioner is whether or not simulcasting or live
17 racing is imminent.

18 And so they haven't -- they haven't asked
19 us to give them an active-other designation with a
20 bond. So even though they could, they haven't, so we
21 can't give them an active-other designation for a
22 bond. It would have to be done by now.

23 So we just have to -- we have to look at
24 whether or not live racing is imminent and we consider
25 whether it is by looking at this page D-26 and 27,

1 which is their argument. It's them. It's all of the
2 factors that they want us to consider.

3 CHAIRMAN SCHMIDT: So are you going to
4 put that in the form of a motion?

5 COMMISSIONER ABER: Yeah, I make the
6 motion that we let them do it.

7 CHAIRMAN SCHMIDT: So there's a motion on
8 the floor by Commissioner Aber in favor of making the
9 Valle track designated as active-other.

10 Is there a second to that motion?

11 COMMISSIONER MARTIN: I'll second it.

12 CHAIRMAN SCHMIDT: Seconded by
13 Dr. Martin.

14 Any further discussion?

15 All those in favor signify by saying
16 aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN SCHMIDT: All those opposed?

19 MS. O'CONNELL: Opposed.

20 MR. POLUNSKY: Opposed.

21 CHAIRMAN SCHMIDT: We need to vote on
22 this then. We need to vote individually on this then,
23 I think, Carolyn.

24 COMMISSIONER MARTIN: Can I ask one
25 question before we vote?

1 CHAIRMAN SCHMIDT: Yes, sir.

2 COMMISSIONER MARTIN: What is the
3 downside if we give them the active-other?

4 VICE-CHAIRMAN EDERER: It seems to me it
5 puts the heat on them to go forward with their
6 project.

7 CHAIRMAN SCHMIDT: I mean, I think it's
8 difficult to -- it's what they call -- you know, it's a
9 hard vote either way. I think some of the
10 Commissioners have been -- I can't speak for
11 everyone -- but have been here longer and have listened
12 to five years of eloquent arguments. But I don't
13 disagree with your thinking and I think with the Valle
14 track, they did try to do simulcasting. So they have a
15 strong argument either way.

16 VICE-CHAIRMAN EDERER: They have come
17 forward. They did spend some money. They did try. We
18 voted them down. Now they've tabled it. But from what
19 Mr. LaMantia just said, they would certainly
20 re-entertain this if given the opportunity. I think he
21 kind of -- at least I interpret what he said is that he
22 felt that they didn't have the opportunity to do
23 anything and so they haven't done anything; but if we
24 give them the opportunity, from what I interpret, they
25 will go forward. I don't know. But we certainly could

1 keep an eye on them and see if they go forward or not.

2 CHAIRMAN SCHMIDT: But we do have an
3 option next year. If they don't race, we have an
4 option.

5 VICE-CHAIRMAN EDERER: In the past we've
6 heard so much. And I've said that a number of times.
7 We've listened to the same story over and over. Valle
8 did come forward and they're the only track that's in
9 this category that really has come forward and really
10 tried and spent some money and gone forward. And I
11 hope they continue to go forward. And I hope that the
12 two Laredo licenses go forward and do the same thing,
13 but we're not in a position yet. They haven't gone
14 that far yet.

15 CHAIRMAN SCHMIDT: Okay. Carolyn, can
16 you call the roll, please? The matter is before a
17 vote.

18 COMMISSIONER STEEN: So can I ask one
19 more question? So if we do approve the active-other
20 designation the next time, we can review it any time or
21 we will review once the August 2013 race dates have
22 passed?

23 CHAIRMAN SCHMIDT: I think technically,
24 Mark, we can review it at any time.

25 MR. FENNER: The rule talks in terms of

1 any time the circumstances underlying the designation
2 change. So for example, if you were to get a half a
3 year down the road and there was no progress being made
4 at all, I think you would have the liberty to take it
5 up again and reconsider the designation.

6 COMMISSIONER STEEN: Thanks.

7 MS. WEISS: Commissioner Aber?

8 COMMISSIONER ABER: Aye.

9 MS. WEISS: Commissioner Ederer?

10 VICE-CHAIRMAN EDERER: Aye.

11 MS. WEISS: Commissioner Hicks?

12 COMMISSIONER HICKS: Aye.

13 MS. WEISS: Commissioner Martin?

14 COMMISSIONER MARTIN: Aye.

15 MS. WEISS: Commissioner O'Connell?

16 MS. O'CONNELL: Nay.

17 MS. WEISS: Commissioner Polunsky?

18 MR. POLUNSKY: No.

19 MS. WEISS: Commissioner Steen?

20 COMMISSIONER STEEN: Aye.

21 MS. WEISS: Commissioner Weinberg?

22 COMMISSIONER WEINBERG: Aye.

23 MS. WEISS: Chairman Schmidt?

24 CHAIRMAN SCHMIDT: Aye.

25 The motion carries?

1 MS. WEISS: Yes, sir.

2 CHAIRMAN SCHMIDT: So just for review,
3 active-operating, Gillespie County Fair, Gulf Greyhound
4 Park, Lone Star Park, Retama Park, Sam Houston Race
5 Park, Valley Race Park; active-other, Gulf Coast
6 Racing, Valle; inactive today, can be reviewed in the
7 future, Laredo Downs, Laredo Race Park, Longhorn Downs,
8 Manor Downs, Saddle Brook Park.

9 The next item, a request by Laredo Downs
10 for approval of a change in ownership of less than one
11 percent. Mr. Blodgett, if you could lay out the
12 request for us.

13 MR. BLODGETT: Commissioners, related to
14 this agenda item, on June 15th, 2012, the Commission
15 received a written request from Laredo Downs to approve
16 a change of 0.0917 percent ownership from Ted Abrams,
17 who currently owns 1.2232 percent, to Muy Buena Suerte,
18 Limited, who owns 51.2559 percent.

19 As a side note, Mr. Abrams underwent a
20 background check before his license was granted in
21 2007. DPS advised they refreshed this background
22 information on Muy Buena Suerte principals in February
23 of this year, which brings me to recommend that there's
24 no further background review that is necessary to
25 accommodate this change.

1 The staff recommends that this transfer
2 be approved. And I'll answer any questions that you
3 may have.

4 CHAIRMAN SCHMIDT: Any public comment?

5 Okay. Mr. Moltz is available for any
6 questions.

7 Any further discussion?

8 I'll certainly entertain a motion to
9 approve the request by Laredo Downs for a change in
10 ownership of less than one percent.

11 COMMISSIONER HICKS: I'll make the
12 motion.

13 CHAIRMAN SCHMIDT: A motion made by
14 Commissioner Hicks, seconded by --

15 COMMISSIONER STEEN: Second.

16 CHAIRMAN SCHMIDT: -- Commissioner
17 Steen.

18 All those in favor signify by saying
19 aye.

20 COMMISSIONERS: Aye.

21 CHAIRMAN SCHMIDT: The motion carries.

22 Proceedings on rulemaking, proposal for
23 amendment to Rule 311.3, Information for Background
24 Investigation. Mark, can you briefly lay out the
25 proposal for us?

1 MR. FENNER: Yes, sir. This change
2 provides additional flexibility to the Commission to
3 charge applicants for licenses the actual cost of
4 conducting background checks rather than having a fixed
5 dollar amount in the rule. It was published in the
6 July 6th edition of the Texas Register and we've
7 received no comments on the proposal in response to
8 that publication.

9 Staff recommends adoption.

10 CHAIRMAN SCHMIDT: Commissioner
11 O'Connell, Commissioner Aber, any questions or
12 comments?

13 MS. O'CONNELL: It's very
14 straightforward.

15 CHAIRMAN SCHMIDT: Any public comment,
16 Jonathan?

17 MR. SIERRA-ORTEGA: No, sir.

18 CHAIRMAN SCHMIDT: I'd certainly
19 entertain a motion to adopt Rule 311.3 as published in
20 the Texas Register.

21 MR. POLUNSKY: So moved.

22 CHAIRMAN SCHMIDT: So moved by
23 Commissioner Polunsky.

24 COMMISSIONER MARTIN: Second.

25 CHAIRMAN SCHMIDT: Seconded by

1 Dr. Martin.

2 All those in favor signify by saying
3 aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN SCHMIDT: The motion carries.

6 Opening of rule review, Chapter 311,
7 Other Licenses. Mark, can you lay that out for us?

8 MR. FENNER: Yes, sir. The Texas
9 Government Code requires the Commission to review all
10 of its rules at least once every four years. The last
11 time that the rules within Chapter 311 were
12 systematically reviewed was in 2008. Therefore, staff
13 is recommending publishing this chapter in the Texas
14 Register for rule review.

15 CHAIRMAN SCHMIDT: Okay. Any public
16 comment about this issue? None?

17 Okay. Any discussion?

18 Okay. So we last reviewed this in 2008.
19 We're going to publish the entire chapter. I'd
20 certainly entertain a motion to publish Chapter 311 in
21 the Texas Register for rule review and request public
22 comment.

23 Is there a motion?

24 COMMISSIONER MARTIN: I make a motion.

25 CHAIRMAN SCHMIDT: A motion per

1 Dr. Martin.

2 Is there a second?

3 COMMISSIONER HICKS: Second.

4 CHAIRMAN SCHMIDT: Seconded by
5 Commissioner Hicks.

6 Any further discussion?

7 All those in favor signify by saying
8 aye.

9 COMMISSIONERS: Aye.

10 CHAIRMAN SCHMIDT: All those opposed?

11 Okay. There will be no executive session
12 today.

13 The next Commission meeting will be
14 October 9th, 2012.

15 And the meeting is now adjourned at
16 12:52. Thank you.

17 (Proceedings concluded at 12:52 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 August, 2012.

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