

BEFORE THE  
TEXAS RACING COMMISSION  
AUSTIN, TEXAS

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COMMISSION MEETING  
FEBRUARY 19, 2013

BE IT REMEMBERED that the above entitled matter came on for hearing on the 19th day of February, 2013, beginning at 10:48 A.M. at 2105 Kramer Lane, Austin, Travis County, Texas, and the following proceedings were reported by SHERRI SANTMAN FISHER, Certified Shorthand Reporter for the State of Texas.

APPEARANCES

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Commissioners:      ROBERT SCHMIDT  
                         RONALD F. EDERER  
                         MIKE MARTIN  
                         GLORIA HICKS  
                         GARY P. ABER  
                         VICKI WEINBERG  
                         JOHN T. STEEN, III  
                         ANN O'CONNELL  
                         ALLAN POLUNSKY

1                   CHAIRMAN SCHMIDT: The time now is  
2 10:48. I'd like to call the Racing Commission meeting  
3 to order.

4                   Ms. Norwood, could you please call the  
5 roll?

6                   MS. NORWOOD: Commissioner Ron Ederer?

7                   VICE-CHAIRMAN EDERER: Present.

8                   MS. NORWOOD: Commissioner Allan  
9 Polunsky?

10                  MR. POLUNSKY: Here.

11                  MS. NORWOOD: Commissioner Ann  
12 O'Connell?

13                  MS. O'CONNELL: Here.

14                  MS. NORWOOD: Commissioner Gloria Hicks?

15                  COMMISSIONER HICKS: Here.

16                  MS. NORWOOD: Commissioner Vicki  
17 Weinberg?

18                  COMMISSIONER WEINBERG: Here.

19                  MS. NORWOOD: Commissioner Michael  
20 Martin?

21                  COMMISSIONER MARTIN: Here.

22                  MS. NORWOOD: Commissioner John Steen?

23                  COMMISSIONER STEEN: Here.

24                  MS. NORWOOD: Commissioner Gary Aber?

25                  COMMISSIONER ABER: Here.

1 MS. NORWOOD: Chairman Schmidt?

2 CHAIRMAN SCHMIDT: Present.

3 Ms. Norwood, we have a quorum, correct?

4 MS. NORWOOD: Yes, sir.

5 CHAIRMAN SCHMIDT: Thank you.

6 Public comment. First I'd like to make a  
7 public comment and apologize to my Commissioners for  
8 delaying you. Your time is valuable. My ability to  
9 navigate the roads of Austin is not as skilled as I had  
10 thought. I was in the city limits at 10 o'clock.

11 We have public comment from Bryan Brown.

12 Excuse me. From Bryan Brown and Chris Corrado.

13 MR. BROWN: Good morning, Chairman  
14 Schmidt, Commissioners. Bryan Brown with Retama Park.

15 I wanted to update you on our transaction  
16 with Pinnacle. We did close on January 29th, so on  
17 February 1st a new management company, which is  
18 PNK(SAM), LLC, took over, which is a Pinnacle  
19 subsidiary. So far everything has gone well. We've  
20 integrated into the Pinnacle system. Pinnacle  
21 interviewed 150 of our team members and selected 147 of  
22 them. One declined. So we were very, very pleased  
23 with that.

24 The future looks great. Our team  
25 members, our staff, are very, very excited about the

1 directions that potentially we're headed and everybody  
2 is eager to get to work and do positive things instead  
3 of making up for negative situations. So everybody is  
4 very, very excited.

5 I wanted to introduce to you today our  
6 to-be-named vice-president and general manager once the  
7 Commission and Department of Public Safety have  
8 completed their review and have approved him. And  
9 that's Chris Corrado. He is a Pinnacle executive at  
10 the present time and will be taking over, again, as  
11 soon as he's approved. And if it's the pleasure of the  
12 Commission, I'd like for him to be able to say a couple  
13 of words and introduce himself.

14 CHAIRMAN SCHMIDT: Certainly.

15 Mr. Corrado, welcome.

16 MR. CORRADO: Thank you very much. Good  
17 morning.

18 As Bryan said, I have been with Pinnacle  
19 Entertainment for the past two and a half years. Prior  
20 to this opportunity with Retama I was with our casino  
21 resort outside of Cincinnati in Florence, Indiana,  
22 Belterra Casino Resort. As I said, I have been in the  
23 casino resort business for the past 14 years and prior  
24 to that held various marketing roles in the Chicago  
25 area.

1 I'm very excited obviously to be coming  
2 to San Antonio, very excited to be affiliated with  
3 Retama, and look forward to working with all of you and  
4 all the folks in the San Antonio area.

5 Thank you.

6 CHAIRMAN SCHMIDT: Welcome, sir. Thank  
7 you very much.

8 MR. CORRADO: Thank you.

9 CHAIRMAN SCHMIDT: Devon, any other  
10 public comment?

11 MS. BIJANSKY: No.

12 CHAIRMAN SCHMIDT: Moving on to general  
13 business, reports by the executive director and staff  
14 regarding administrative matters, a budget and finance  
15 update, Mr. Sammy Jackson.

16 Mr. Jackson?

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

18 Commissioners, on pages four and five of  
19 your agenda packet, you'll find the agency's fiscal  
20 year 2013 operating budget reflecting revenue  
21 collections and expenditures as of December 31st,  
22 2012. As of this date, the agency has collected 4.49  
23 million in revenues and expended 2.06 million in budget  
24 authority. The agency is in very good fiscal shape  
25 with one-third of the year now elapsed.

1                   In addition, I'd like to update you as  
2 far as our agency legislative appropriation requests.  
3 The 2014-15 legislative appropriation request that was  
4 approved by you was submitted and was recommended  
5 intact by the Legislative Budget Board and has now been  
6 moved on to Senate Finance and House Appropriations and  
7 rolled up into Senate Bill 1 and House Bill 1.

8                   We have testified before Senate Finance  
9 Committee and House Appropriations Committee this past  
10 week and it looks like we're moving forward with our  
11 budget intact 100 percent. I'm very pleased with  
12 that.

13                   If you all have any questions for me, I'd  
14 be happy to answer them.

15                   CHAIRMAN SCHMIDT: Good work,  
16 Mr. Jackson.

17                   Any questions of Mr. Jackson by any of  
18 the Commissioners?

19                   Mr. Gougler?

20                   MR. GOUGLER: Yes.

21                   CHAIRMAN SCHMIDT: Report on racetrack  
22 inspections, sir.

23                   MR. GOUGLER: Good morning,  
24 Commissioners.

25                   The report included in your package

1 reflects inspection activities from the time of  
2 December 1st through February 1st. There were seven  
3 inspections done. Three required follow-up to resolve  
4 unsatisfactory items. The type of inspections included  
5 administrative, veterinary, safety and security,  
6 wagering, and training centers. And the unsatisfactory  
7 items were all resolved and there's currently no  
8 unresolved issues in our report.

9 CHAIRMAN SCHMIDT: Any questions of  
10 Mr. Gougler?

11 Thank you, Mike.

12 MR. GOUGLER: Thank you.

13 CHAIRMAN SCHMIDT: Wagering statistics.  
14 Mr. Jackson?

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

17 Commissioners, on pages seven through  
18 nine of your agenda packet, you will find the report on  
19 wagering statistics for the periods of January 1st  
20 through February 10th for both 2012 and 2013. The  
21 report reflects 2013 total wagering activity has  
22 increased at the horse racetracks by 3.21 percent and  
23 has increased at our greyhound tracks by 1.2 percent.  
24 This is a change from what we have seen in the past  
25 where we've actually seen some recovery at the



1 greyhound tracks for the first time. I'm very pleased  
2 with that.

3 If you have any questions, I'd be happy  
4 to answer them.

5 CHAIRMAN SCHMIDT: I just have one.  
6 Mr. Jackson, do you think this reflects a general sense  
7 of the economy moving forward or marketing or both  
8 or --

9 MR. JACKSON: At this point I'm not  
10 sure. I'd like -- before I delve into that, I'd like  
11 to see it happen through our next Commission meeting  
12 and see if it holds. What we see -- usually the time  
13 of the year that we're reporting here is a very lull  
14 time of the year. We don't have as much racing  
15 opportunities and some of the major races, but you  
16 start to see it start to come at the end of February.  
17 So I'm hopeful that as we go into the end of February  
18 into March that this will hold and maybe grow. And if  
19 it is, I think that's a good sign that we are in some  
20 recovery there. But I'd like to wait to see what  
21 happens there.

22 CHAIRMAN SCHMIDT: Any other questions of  
23 Mr. Jackson?

24 Mr. Gougler, enforcement report?

25 MR. GOUGLER: Yes, sir.

1           The enforcement report includes the  
2           entire calendar year of 2012. In comparison to 2011,  
3           things were very similar. There was a slight decrease  
4           in the number of new licensees and renewals based on  
5           the sunset changes that occurred where we're no longer  
6           licensing people on the front side and everything else  
7           is fairly consistent. There were no notable positives  
8           within the last reporting period also.

9           CHAIRMAN SCHMIDT: Any questions of the  
10          Commissioners?

11          Thank you, Mr. Gougler.

12          We'll pass over Item E and move directly  
13          into proceedings on racetracks, a request by Pinnacle  
14          Retama Partners to approve change in management  
15          committee.

16          Mr. Gougler, can you lay out the item for  
17          us, please?

18          MR. GOUGLER: Yes, sir.

19          On January 24th of this year we received  
20          a request from Pinnacle Entertainment, Incorporated,  
21          for approval to substitute Keith Henson for Geno  
22          Iafrate as one of PNK(SA)'s three members on the PRLLC  
23          management committee. PNK(SA) is a wholly-owned  
24          subsidiary of Pinnacle. Mr. Henson had previously  
25          submitted fingerprints that were reviewed by DPS and

1 DPS feels no further background is warranted and at  
2 this time we recommend Commission approval.

3 CHAIRMAN SCHMIDT: No issues at all?

4 MR. GOUGLER: Yes, sir, that's correct.

5 CHAIRMAN SCHMIDT: Thank you.

6 Mr. Brown, would you like to speak?

7 MR. BROWN: Just if necessary to answer  
8 any questions that you have.

9 CHAIRMAN SCHMIDT: Sure.

10 Do any Commissioners have any questions  
11 of Mr. Brown?

12 Okay. Any discussion by the Commission?

13 I'll certainly entertain a motion to  
14 approve the request by Pinnacle Retama Partners for  
15 approval of change in their management committee.

16 COMMISSIONER HICKS: I make the motion.

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

19 VICE-CHAIRMAN EDERER: Second.

20 CHAIRMAN SCHMIDT: Seconded by Vice-Chair  
21 Ederer.

22 Any further discussion?

23 All those in favor signify by saying  
24 aye.

25 COMMISSIONERS: Aye.

1                   CHAIRMAN SCHMIDT:  Anyone opposed?

2                   That's approved.

3                   Item B, a request by Pinnacle Retama  
4 Partners, LLC, for approval of a concession contract  
5 with PNK.

6                   Mr. Fenner, can you lay that item out for  
7 us?

8                   MR. FENNER:  Yes, sir.

9                   Commissioners, Retama -- Pinnacle Retama  
10 Partners has submitted a request for approval to enter  
11 into a concession contract with its wholly-owned  
12 subsidiary PNK(SAZ), and the purpose of PNK(SAZ) would  
13 be to exclusively -- will be to run the alcoholic  
14 beverage concession contract.

15                   We've reviewed the contract and we've  
16 provided a copy of it to you.  We don't find anything  
17 problematic in terms of the Racing Act or the racing  
18 rules.  They have an application for permits and  
19 licenses, as necessary, with the Texas Alcoholic  
20 Beverage Commission; so if you approve this concession  
21 contract today, it will still be contingent upon  
22 approval by TABC and it won't take effect until TABC  
23 approves it.

24                   CHAIRMAN SCHMIDT:  Thank you.  No issues  
25 there as well.

1                   Mr. Brown has submitted a card to be  
2           available for any questions. Any questions of Bryan  
3           Brown?

4                   Any further discussion, issues?

5                   Okay. Certainly I'll entertain a motion  
6           to approve the request by Pinnacle Retama Partners for  
7           approval of a concession contract with PNK.

8                   COMMISSIONER STEEN: I'll make a motion.

9                   CHAIRMAN SCHMIDT: A motion made by  
10          Commissioner Steen.

11                   Second?

12                   COMMISSIONER MARTIN: Second.

13                   CHAIRMAN SCHMIDT: Seconded by  
14          Commissioner Martin.

15                   Any further discussion, comment?

16                   All those in favor of the motion signify  
17          by saying aye.

18                   COMMISSIONERS: Aye.

19                   CHAIRMAN SCHMIDT: Anyone opposed?

20                   That motion also carries.

21                   Proceedings on rulemaking, committee on  
22          rules. Commissioner O'Connell, I'll ask you to provide  
23          the report as we consider each of the rules.

24                   A proposal for new Rule 307.8, Negotiated  
25          Rulemaking and Alternative Dispute Resolution.

1 Mark, will you present the item to us?

2 MR. FENNER: Yes, sir.

3 The sunset bill requires the Commission  
4 to adopt a policy on alternative dispute resolution and  
5 negotiated rulemaking. In researching this, we found  
6 that the Department of Information Resources had  
7 recently adopted a rule because they had also had the  
8 same requirement put into their statute and so we  
9 patterned this rule very much on what the DIR has.

10 Now, the rule doesn't require any changes  
11 in the way that the Commission operates. However, it  
12 does provide some additional tools in your toolbox for  
13 dealing with particularly problematic issues. And so  
14 this has been discussed at two different rule committee  
15 meetings and we believe it is ready for publication in  
16 the Texas Register for public comment.

17 I'll be happy to answer any questions you  
18 have.

19 CHAIRMAN SCHMIDT: So we're ready to  
20 bring it to be published.

21 Any public comment, Devon? Any cards?

22 Okay. Commissioner O'Connell, anything  
23 to add, any insights?

24 MS. O'CONNELL: We've had a good template  
25 with the DIR policy and we've been able to look at it

1 and make sure we can adapt it to the Commission's use.

2 CHAIRMAN SCHMIDT: Any of the  
3 Commissioners have any further comments, particularly  
4 our attorney Commissioners?

5 Okay. I'll certainly entertain a motion  
6 to publish the proposed new Rule 307.8 in the Texas  
7 Register for public comment.

8 Is there a motion?

9 COMMISSIONER WEINBERG: I make a motion.

10 CHAIRMAN SCHMIDT: A motion made by  
11 Commissioner Weinberg.

12 MR. POLUNSKY: I second.

13 CHAIRMAN SCHMIDT: A second. We have a  
14 motion and we have a second.

15 All those in favor signify by saying  
16 aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN SCHMIDT: Anyone opposed?

19 Great.

20 Mark, proposal of new Rule 309.53,  
21 Ownership and Management Review of Active Racetrack  
22 Licenses. Can you bring us up to date on this rule?

23 MR. FENNER: Yes, sir.

24 Another change brought about by the  
25 sunset bill was a requirement that the Commission

1 review the ownership and management of active racetrack  
2 licenses every five years, plus adoption of a staggered  
3 schedule for those reviews.

4 Now, in developing the proposed rule, we  
5 tried to utilize the resources that were available to  
6 the Commission already as much as possible. These  
7 include things like the inspection reports and the  
8 audited financials and the ownership reports that the  
9 racetracks already submit to us.

10 It may require some additional  
11 information from them in terms of background checks.  
12 We're going to have to run background checks on every  
13 owner who has five percent or more ownership in a  
14 racetrack license.

15 In developing the staggered schedule, we  
16 recognized that the proposed changes or the approved  
17 changes in ownership of a controlling interest in a  
18 racetrack serves the same purpose and has the same  
19 scope as an ownership and management review. And so on  
20 page 23 -- or page 22, you'll see the schedule of  
21 reviews that has taken place as the Commission has  
22 approved various changes of ownership. And based on  
23 that draft rule and the schedule that has already taken  
24 place of approved changes in ownership, you'll see on  
25 page three of the schedule the future ownership and



1 management reviews.

2 Now, this has been reviewed at two rules  
3 committee meetings and we believe it's ready for  
4 publication in the Texas Register for public comment.

5 CHAIRMAN SCHMIDT: Okay. We'll work  
6 through it a little bit.

7 Devon, any public comment on these  
8 rules?

9 MS. BIJANSKY: No, sir.

10 CHAIRMAN SCHMIDT: Okay. Thank you.  
11 Commissioner O'Connell?

12 MS. O'CONNELL: Nothing additional.

13 CHAIRMAN SCHMIDT: Great.

14 Any discussion by any of the  
15 Commissioners?

16 I'll certainly entertain a motion to  
17 publish proposed new Rule 309.53 in the Texas Register  
18 for public comment.

19 COMMISSIONER MARTIN: I'll make a  
20 motion.

21 CHAIRMAN SCHMIDT: A motion by  
22 Dr. Martin.

23 VICE-CHAIRMAN EDERER: Second.

24 CHAIRMAN SCHMIDT: Seconded by Vice-Chair  
25 Ederer.

1 All those signify -- all those in favor  
2 please signify by saying aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN SCHMIDT: Anyone opposed?

5 That motion also carries.

6 Mark, can you discuss the issue of the  
7 live lures with us, bring us up to date there?

8 MR. FENNER: Yes, sir.

9 The proposals listed in Subparts D  
10 through I arose after we learned of evidence of a  
11 licensee who was using a live rabbit in training  
12 greyhounds. Now, fortunately, we were able to take  
13 action on him and that person surrendered his racing  
14 license for revocation by the Commission. But the  
15 process made us take another look at our rules and we  
16 found that there were some elements lacking and we  
17 developed these proposals in response to that review.

18 This has been taken to several rules  
19 committee as well as the greyhound advisory committee  
20 meeting; and after all of those meetings and the work  
21 we've done with the industry, we believe that these are  
22 ready for proposal and publication in the Texas  
23 Register.

24 I'd be happy to answer any questions  
25 about any of these individual proposals that you may

1 have.

2 CHAIRMAN SCHMIDT: Any questions of  
3 Mr. Fenner?

4 COMMISSIONER ABER: I'd like to -- could  
5 you tell me -- now they can use hides to do that? Is  
6 that what they're saying on some of those?

7 MR. FENNER: Yes. As part of the  
8 discussion we had with the industry, we've learned that  
9 they are using commercially procured animal hides in  
10 training of greyhounds and this was important to them  
11 because they believe that they are more durable than  
12 the synthetic or other types of items you might use.

13 So we were a little concerned about our  
14 people were going out in the pasture and procuring  
15 their own hides. And so this is not intended to permit  
16 that. They would have to purchase these commercially.

17 COMMISSIONER ABER: Do you think that  
18 looks real good that they do that, even do that?

19 MR. FENNER: That was the subject of  
20 quite a bit of discussion.

21 CHAIRMAN SCHMIDT: Any other questions?

22 Good point, Commissioner.

23 So hides are permitted.

24 MR. FENNER: Yes, sir, they're  
25 commercially available.

1                   CHAIRMAN SCHMIDT: Any further comments  
2 or questions of Mr. Fenner?

3                   MS. O'CONNELL: I thought it was  
4 interesting that after our last meeting -- and we did  
5 discuss that, and that was a compromise to use the --  
6 to allow the commercially available hides. We did  
7 receive this letter from Grey2K, the national animal  
8 protection organization for greyhounds, that is in  
9 support. And in fact, their letter says they're in  
10 strong support of the drafts of our proposal.

11                   CHAIRMAN SCHMIDT: Great.

12                   MS. O'CONNELL: So we're glad to have  
13 their support as well as the support of the industry.  
14 We felt like we achieved a compromise that we can --  
15 that helps the situation.

16                   CHAIRMAN SCHMIDT: Thank you,  
17 Commissioner O'Connell.

18                   Any other discussion by the  
19 Commissioners?

20                   I'll certainly entertain a motion to  
21 publish the new and amended rules as described in  
22 Sections V-D through V-I in the Texas Register for  
23 public comment.

24                   COMMISSIONER HICKS: I'll make the  
25 motion.

1                   CHAIRMAN SCHMIDT: A motion is made by  
2 Commissioner Hicks.

3                   COMMISSIONER WEINBERG: Second.

4                   CHAIRMAN SCHMIDT: Seconded by  
5 Commissioner Weinberg.

6                   Any further discussion?

7                   All those in favor signify by saying  
8 aye.

9                   COMMISSIONERS: Aye.

10                  CHAIRMAN SCHMIDT: Anyone opposed?

11                  COMMISSIONER ABER: No.

12                  CHAIRMAN SCHMIDT: Make note that all  
13 Commissioners with the exception of Commissioner Aber  
14 voted in favor. The motion does carry.

15                  Then now we move to rule adoptions.

16                  Mr. Fenner, can you discuss the adoption  
17 of amendment to Rule 309.1 on racetrack licenses, bring  
18 us up to date on that?

19                  MR. FENNER: Yes, sir.

20                  This rule proposal would bring the rules  
21 into conformity with the Texas Racing Act and the  
22 sunset bill. The rule currently provides that licenses  
23 are perpetual. They are no longer perpetual under the  
24 act. So this eliminates that statement and it  
25 clarifies that the Commission can revoke or suspend a

1 license and change its designation as active or  
2 inactive or, with the Commission's approval, an  
3 association can voluntarily surrender its license.

4 The rule was published in the January  
5 4th, 2013 edition of the Texas Register and we've not  
6 received any comments in response to the publication.

7 CHAIRMAN SCHMIDT: No comments at all.

8 MR. FENNER: No, sir.

9 CHAIRMAN SCHMIDT: Great.

10 Any public comment, Devon?

11 MS. BIJANSKY: No, sir.

12 CHAIRMAN SCHMIDT: All set.

13 Any discussion by any of the  
14 Commissioners, any questions, concerns?

15 I'll certainly entertain a motion to  
16 adopt the amendment of Rule 309.1, to adopt this rule  
17 as published in the Texas Register.

18 Is there a motion?

19 COMMISSIONER STEEN: I'll make a motion.

20 CHAIRMAN SCHMIDT: A motion made by  
21 Commissioner Steen and seconded by Dr. Martin.

22 Any further discussion?

23 All those in favor please signify by  
24 saying aye.

25 COMMISSIONERS: Aye.

1                   CHAIRMAN SCHMIDT:  Anyone opposed?

2                   That motion also carries.

3                   There will be no executive session  
4                   today.

5                   I did -- just on old business -- or,  
6                   excuse me, new business, we were scheduled last Tuesday  
7                   and we had a conflict basically because our staff  
8                   needed to testify at the Senate hearing, but we'd like  
9                   to stick to our previous schedule if that's okay with  
10                  everybody and not move the meetings.  So is April 9th a  
11                  good meeting for everyone?  Does anyone have a conflict  
12                  there?

13                  Then we'll assume that April 9th will be  
14                  our next Commission meeting.

15                  Any further business?

16                  Okay.  It's 11:10 and we're adjourned.

17                  Thank you.

18                  (Proceedings concluded at 11:10 a.m.)

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1 STATE OF TEXAS )

2 COUNTY OF TRAVIS )

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

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

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,  
15 Texas, this \_\_\_\_\_ day of February, 2013.

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21 \_\_\_\_\_  
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