

TEXAS RACING COMMISSION

MEETING

10:00 a.m.
Wednesday,
December 20, 2017

Department of Public Safety
Criminal Law Enforcement
6100 Guadalupe, Building E
First Floor Auditorium
Austin, Texas

COMMISSIONERS PRESENT:

JOHN T. STEEN III, Chair
RONALD F. EDERER, Vice-Chair
TIM KLEINSCHMIDT
STEVEN P. MACH
MARGARET L. MARTIN

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P R O C E E D I N G S

1
2 CHAIRMAN STEEN: Good morning. The time is now
3 ten o'clock. At this time I'd like today's meeting of the
4 Texas Racing Commission to order.

5 Jean, could you please call the roll?

6 MS. COOK: Yes. Commissioner Hicks?

7 (No response.)

8 MS. COOK: Commissioner Mach?

9 COMMISSIONER MACH: Here.

10 MS. COOK: Commissioner Martin?

11 COMMISSIONER MARTIN: Present.

12 MS. COOK: Commissioner Kleinschmidt?

13 COMMISSIONER KLEINSCHMIDT: Here.

14 MS. COOK: Commissioner Schmidt?

15 (No response.)

16 MS. COOK: Commissioner Ederer?

17 COMMISSIONER EDERER: Here.

18 MS. COOK: Commissioner Steen?

19 CHAIRMAN STEEN: Here.

20 Do we have a quorum?

21 MS. COOK: Yes, sir.

22 CHAIRMAN STEEN: Thank you.

23 Public comment. Jean, has anyone signed up for
24 public comment?

25 MS. COOK: No, sir.

1 CHAIRMAN STEEN: Moving on to general business,
2 the next item is agenda item III.A.1. Budget and finance.

3 Adrienne Courtney, could you give us the update, please?

4 MS. COURTNEY: Good morning, commissioners.

5 On pages 5 through 9 of your agenda packet is
6 the agency's fiscal year 2017 operating budget through
7 August 31. As of the end of the fiscal year, the agency
8 collected approximately \$7.8 million in revenue and had
9 expenditures of \$7.77 million. The \$7.8 million in
10 revenue includes a cash reserve of \$385,000 which was
11 carried forward from 2016.

12 In 2017 the agency used most of its cash
13 reserve to cover expenses. A cash balance of \$44,500 will
14 be carried forward to 2018. Costs were reduced by
15 approximately \$132,000 in 2017 compared to 2016. Chuck
16 will provide an overview of the agency's funding later in
17 the meeting.

18 I'd be happy to answer any questions you may
19 have.

20 CHAIRMAN STEEN: Commissioners, do you have any
21 questions?

22 (No response.)

23 CHAIRMAN STEEN: Thank you.

24 Okay. Next item is agenda item 3B, Report on
25 wagering statistics. Curley Trahan, please.

1 MR. TRAHAN: Thank you, Mr. Chairman. Good
2 morning, commissioners.

3 In your meeting materials on pages 10 through
4 12 is the comparison report on the wagering statistics for
5 the period of January 1 through November 5 for calendar
6 years 2016 and 2017.

7 For the reporting period, total wagering
8 activities at the greyhound racetracks showed a decrease
9 of 11.98 percent from 2016 which equates to a decrease of
10 approximately \$4.47 million in handle. Total wagering
11 activities at the horse racetracks also showed a decrease
12 of 2.83 percent for the same period, equating to a
13 decrease of approximately \$9.38 million in handle.

14 Overall, total wagers placed in Texas has
15 decreased by 6.14 percent, representing a loss to handle
16 of approximately \$16.39 million, however, total wagers
17 placed on Texas reflects an increase of 1.47 percent, or
18 approximately \$1.84 million in additional handle.

19 I'd be happy to answer any questions.

20 CHAIRMAN STEEN: Commissioners, do you have any
21 questions?

22 (No response.)

23 CHAIRMAN STEEN: Thank you, Curley.

24 MR. TRAHAN: Thank you.

25 CHAIRMAN STEEN: The next item is agenda item

1 3C, Enforcement Report; there will not be an enforcement
2 report at this meeting.

3 Moving on to B, the next items are agenda items
4 III.B.1 and 2, approval of internal audit plan for fiscal
5 year 2018 and update to the internal audit charter.
6 Munday Rufus is here to present these items.

7 Good morning, Mr. Rufus.

8 MR. RUFUS: Good morning, Chairman,
9 commissioners. My name is Monday Rufus with the firm of
10 Monday Rufus & Company, a CPA firm here in Austin.

11 As required by the Internal Audit Act, Texas
12 Government Code, Section 2102.008, we have prepared the
13 audit plan for fiscal year 2018. We did a risk assessment
14 to determine the areas in the Texas Racing Commission that
15 should be considered for audit, and based on that risk
16 assessment, we are recommending these two areas for audit:

17 Texas Bred Incentive Programs - Associations; and Texas
18 Bred Programs - Texas Racing Commission's Policies and
19 Procedures.

20 Your approval of the plan is required, and I'll
21 be more than happy to answer any questions that you have.

22 CHAIRMAN STEEN: Commissioners, do you have any
23 questions?

24 (No response.)

25 CHAIRMAN STEEN: In that case, I'll entertain a

1 motion to approve the internal audit plan and update the
2 internal charter.

3 COMMISSIONER EDERER: So moved.

4 COMMISSIONER MACH: Second.

5 CHAIRMAN STEEN: Motion made by Ederer, second
6 by Mach. Any discussion?

7 (No response.)

8 CHAIRMAN STEEN: Okay. Let's take this up for
9 a vote. All in favor please signify by saying aye.

10 (A chorus of ayes.)

11 CHAIRMAN STEEN: Any opposed?

12 (No response.)

13 CHAIRMAN STEEN: The motion carries. Thank
14 you.

15 MR. RUFUS: The next item on the agenda is an
16 update of the internal audit charter. In accordance with
17 the Institute of Internal Auditors, the Texas Internal
18 Audit Act requires that the internal auditor comply with
19 the Institute of Internal Auditors Standards.

20 The purpose, authority and responsibility of
21 the internal audit activity must be formally defined in an
22 internal audit charter. The internal auditor is required
23 to periodically review the internal audit charter and
24 present it to senior management and commission for
25 approval.

1 Some changes were made by the Institute of
2 Internal Auditors in 2017, so the updated charter reflects
3 those changes. Number one of them is on page 2 of the
4 internal audit charter, which is the mission of internal
5 audit defined, reiterating that the internal audit
6 function is to provide independent, objective assurance
7 and consulting services.

8 And then if you go to page 5, bottom of page 5
9 and top of page 6 of the internal audit charter, if the
10 roles of the internal auditor and/or responsibilities of
11 the internal auditor fall outside of internal auditing,
12 there must be some safeguards in place to limit impairment
13 to independence or objectivity.

14 In essence, the internal auditor is required to
15 be independent of the activity that he/she audits, so when
16 there is a conducted engagement there has to be safeguards
17 to ensure that the internal auditor is not impaired in
18 terms of independence.

19 And I'll be more than happy to answer any
20 questions that you may have.

21 CHAIRMAN STEEN: Any questions on that,
22 commissioners?

23 (No response.)

24 CHAIRMAN STEEN: And I believe I'd go ahead and
25 do the same motion that we just did again because I think

1 I took up the charter at the same time, so we'll redo that
2 motion on both subjects, motion to approve the internal
3 audit plan and update the internal audit charter.

4 COMMISSIONER EDERER: So moved.

5 CHAIRMAN STEEN: Ederer.

6 COMMISSIONER MACH: Second.

7 CHAIRMAN STEEN: Second by Mach. Any
8 discussion on that?

9 (No response.)

10 CHAIRMAN STEEN: All in favor please signify by
11 saying aye.

12 (A chorus of ayes.)

13 CHAIRMAN STEEN: Any opposed?

14 (No response.)

15 CHAIRMAN STEEN: That motion carries. Thank
16 you.

17 Okay. The next item is discussion for the
18 process for election of the vice-chair. Devon, I believe
19 you're going to present on this item.

20 MS. BIJANSKY: Yes. Thank you, Mr. Chairman.

21 Commissioners, this item is just letting you
22 know that at the next meeting there will be an agenda item
23 for election of a vice-chair for a two-year term.

24 Under Section 303.6 of the agency rules, which
25 appears in your materials on page 44, the Commission

1 elects a vice-chair at the beginning of each even-numbered
2 year. There are no term limits, so Commissioner Ederer
3 could continue to serve another term, or he may be ready
4 to let somebody else step into that role. Note that any
5 member can serve as vice-chair, not just public members,
6 and you can nominate yourself or someone else at that next
7 meeting.

8 I believe how it's worked in the past is that
9 if you're interested in serving as vice-chair, you would
10 reach out to the chairman between now and that next
11 meeting and give him a heads up that you're interested,
12 and again, we'll take that up at the next meeting.

13 CHAIRMAN STEEN: Commissioners, do you have any
14 questions on the process?

15 (No response.)

16 CHAIRMAN STEEN: Thank you, Devon.

17 Let's move on to matters related to agency
18 funding. The next item is IV.A. Discussion regarding the
19 agency funding situation and cost-cutting measures that
20 have been undertaken.

21 Chuck, I believe you'll be giving us a report
22 on this.

23 MR. TROUT: Yes, sir.

24 Good morning, commissioners.

25 Prior to fiscal year 2012, a significant

1 portion of the agency's revenue came from unclaimed
2 winnings or outs. Because of the volatility of this
3 revenue, Sunset legislation eliminated outs as a funding
4 source and allowed the racetracks to keep their unclaimed
5 winnings. In 2010 this amount was \$1.7 million after the
6 tracks subtracted the costs of drug-testing. The
7 Commission's revised funding structure is now based solely
8 on racetrack and occupational licensing fees.

9 Sunset changes to the Act also require an
10 annual review and renewal of inactive track licenses. If
11 the owners do not show a good faith effort to conduct live
12 racing, the Commission may elect to not renew the
13 licenses.

14 The commissioners and inactive Class 2 license
15 holders agreed that the inactive Class 2 license holders
16 could show a good faith effort to support live racing by
17 paying increased licensing fees of \$230,000 per year to
18 subsidize the regulation of active tracks and thereby
19 avoid non-renewal of their licenses.

20 Now, as far as the history is concerned as to
21 how we got where we are now, if you could refer to the
22 chart -- each of you also have a hard copy of this chart
23 in front of you -- in FY 2014 the Commission received
24 \$4.97 million in total revenue from licensing fees and
25 expended \$4.81 million.

1 The FTE count was 48 and the Commission's cash
2 reserve was \$750,000. Uncontrollable costs, such as
3 employee benefit expenses and legislative mandated salary
4 increases, made up approximately 21.6 percent of the
5 Commission's total expenditures. Due to an increase in
6 uncontrollable costs, the Commission began to operate at a
7 deficit beginning in 2015. Initially, this deficit was
8 covered by the cash reserve carried forward from 2014 and
9 cost-saving actions by the staff.

10 In 2016 three inactive Class 2 tracks lost
11 their licenses, resulting in a loss of revenue of \$345,000
12 in 2016, \$690,000 in 2017, and the depletion of the cash
13 reserve. Since the Commission was not expending funds to
14 regulate these tracks, there were no savings to offset the
15 lost revenue.

16 A review of regulatory costs resulted in a
17 reduction of over \$375,000 in expenses in FY 2016 and
18 2017, and approximately \$263,000 in the current fiscal
19 year. Under the current fee structure, even with these
20 reduced costs, a negative cash flow of approximately
21 \$325,000 is projected this fiscal year.

22 The proposed rule that is currently posted for
23 public comment would reallocate fees, reducing the fees
24 for Class 2 and greyhound tracks and increasing Class 1
25 fees. Estimated revenue needed this fiscal year, based on

1 requested race days, is \$4.55 million to cover projected
2 expenditures of approximately \$4.53 million. The FTE
3 count is estimated at 38.8, down nine FTEs from 2014.
4 Uncontrollable costs will make up 23 percent of total
5 expenditures this fiscal year.

6 Future cost-savings steps, such as moving to a
7 state-owned building, could save in excess of \$120,000 a
8 year in rent and utilities. Moving the Commission's
9 database data into the cloud could also yield additional
10 annual savings. And as requested by Chairman Steen, staff
11 has also examined the process required to contract for a
12 third party efficiency audit which will be discussed next
13 on the agenda today.

14 That's all I have, sir.

15 CHAIRMAN STEEN: Commissioners, any questions?

16 So the projected \$4.53 million in expenditures,
17 that includes the projected cost savings in FY18 as well
18 already in that number?

19 MR. TROUT: Yes, sir.

20 CHAIRMAN STEEN: And that's \$262,000 that's on
21 the last slide there?

22 MR. TROUT: Yes, sir.

23 CHAIRMAN STEEN: That's something that going
24 forward, those are cost-savings that you put into effect
25 that would supposedly affect every year going forward

1 you'd have that savings versus where we were prior to
2 making those changes.

3 MR. TROUT: Most of them would be, yes, sir.

4 CHAIRMAN STEEN: And from an ongoing
5 perspective, you talked about several initiatives you have
6 underway, but those aren't anticipated to come into effect
7 for this fiscal year.

8 MR. TROUT: No, sir. Moving into another
9 building, I think we're looking at 2021.

10 CHAIRMAN STEEN: Is there anything else that
11 you have to present, or is that related to another item?

12 MR. TROUT: No, sir. You do have hard copies
13 of slides that show specific line items as to where we
14 came up with those savings, but that's in the packet you
15 have.

16 COMMISSIONER EDERER: So where are we?

17 MR. TROUT: Where are we?

18 COMMISSIONER EDERER: Financially what is the
19 condition of the Texas Racing Commission?

20 MR. TROUT: I'll let Adrienne discuss that.

21 MS. COURTNEY: I don't have numbers for 2018
22 yet, only because race dates have not been allocated yet,
23 nor has the operating budget been approved. I can just
24 say that it's going to be a very tight budget for 2018 and
25 cash flow will be very tight, as well, to manage.

1 COMMISSIONER EDERER: But at the present time
2 you don't have an answer. Is that right?

3 MS. COURTNEY: I don't have numbers to present
4 yet.

5 COMMISSIONER EDERER: You don't have any
6 numbers.

7 MS. COURTNEY: Not until the operating budget
8 is approved and race dates are allocated. Yes.

9 COMMISSIONER EDERER: Have you any projections
10 if the operating budget is approved?

11 MS. COURTNEY: It really depends on the race
12 dates allocation as well.

13 COMMISSIONER EDERER: I'll save that question.

14 MS. COURTNEY: Okay.

15 CHAIRMAN STEEN: Do we have anyone signed up to
16 speak on this item?

17 MS. COOK: No, sir.

18 CHAIRMAN STEEN: Thank you, Chuck.

19 MR. TROUT: Yes, sir.

20 CHAIRMAN STEEN: The next item is agenda item
21 IV.B. Discussion and possible action to propose new rule
22 309.13, the supplemental fee regarding funding of a third
23 party economy efficiency and effectiveness audit.

24 Devon, will you please present this item?

25 MS. BIJANSKY: Yes, sir.

1 As Mr. Trout mentioned, the industry has asked
2 the Commission to undergo an audit of its operations to be
3 paid for by a supplemental fee assessed to the tracks.
4 Pages 49 and 50 of your materials address the scope and
5 objectives of what the Government Code calls an economy,
6 efficiency and effectiveness audit, which I believe you
7 saw at the September meeting. I'm here to present the
8 supplemental fee rule that's in your materials beginning
9 on page 51.

10 This rule 309.13 provides for the racetracks to
11 pay a one-time supplemental fee to cover the Commission's
12 costs for the audit, which we've been told could be as
13 much as \$200,000 total. Under the rule, each track would
14 pay an equal share of the cost, and in the event that we
15 somehow collected more money than it ended up costing, the
16 remainder would be refunded to the tracks.

17 This rule is before you today for consideration
18 to formally propose and publish in the *Texas Register* for
19 public comment.

20 CHAIRMAN STEEN: So if we were to approve this,
21 what's the procedure that we'd undertake from here on?

22 MS. BIJANSKY: If you were to vote today to
23 propose it, it would be published in the *Register* for the
24 next 30 days for public comment, and then at your next
25 meeting you would be able to consider adopting it.

1 CHAIRMAN STEEN: And are there any steps that
2 we could take in the meantime while it's proposed as far
3 as posting the item, or whatever it may be, to kind of
4 prepare for a bid process in that?

5 MS. BIJANSKY: I'm going to defer to Gerry Dube
6 on that.

7 MR. DUBE: Hello. Gerry Dube with the Texas
8 Racing Commission.

9 The process that we could do in the meantime
10 basically is just to get the audit approved, so that's
11 really going to the State Auditor's Office, getting the
12 scope approved which is in the packet, page 49 in the
13 packet. That's really the first thing we can do.

14 We can't really post anything until they know
15 that we have the funding to do the audit. We could
16 probably get -- I mean, this is a question mark, so I
17 wouldn't project really that we could actually go to the
18 Comptroller and ask them to review our posting because
19 anything approaching \$100,000, they really want to review
20 before we post. We could probably do that, but I don't
21 think we could post it.

22 CHAIRMAN STEEN: Okay. So I guess we've made
23 some cost cuts, we're projecting \$260,000, more or less,
24 going forward that are cut out of the budget, so the
25 purpose of this efficiency audit would be to identify any

1 other cost-savings that we could find.

2 MR. DUBE: That's correct. It would look at
3 the organization and our structure, efficiencies and
4 whatnot.

5 CHAIRMAN STEEN: Commissioners, do you have any
6 questions on that?

7 COMMISSIONER EDERER: I think I misunderstood
8 what you said. Did you say we cannot go to the auditor,
9 we cannot publish?

10 MR. DUBE: We need to get approvals first
11 before we do anything. We need to have approval, which, I
12 believe if we get it today, of the Commission to go ahead
13 and get the auditor's review done. Once that's done we
14 can go to the State Comptroller and have them do a review
15 as well. They have what's called a CAT committee, a
16 contract review committee, basically, they can do a
17 review. But we can't post anything that has essentially a
18 proposal of money attached to it unless we actually have a
19 vote with funds attached.

20 COMMISSIONER EDERER: I see.

21 MR. DUBE: Does that clarify?

22 COMMISSIONER EDERER: Yes. So we have to go to
23 the audit, we can't propose, we can start taking action.

24 MR. DUBE: Exactly.

25 COMMISSIONER EDERER: And then what if the

1 State Auditor says this is what it is and it looks good,
2 then we may not have to go forward. Is that right?

3 MR. DUBE: If the State Auditor approves our
4 scope for the audit and you all have approved the
5 supplemental funds to do it, we'd probably still have to
6 go to the Comptroller anyway to have them review the
7 overall language before we post, but then we could go
8 forward after that.

9 CHAIRMAN STEEN: And so this is getting a
10 little bit ahead of it, but as far as the cost of it, we'd
11 go out essentially in a competitive bid process, if we get
12 to that point, with a scope and people would bid.

13 The rule says here, as proposed, up to
14 \$200,000, but obviously people would be competitively
15 bidding for this and we would look at that based on not
16 only cost but quality, and so the final cost of that would
17 be the bid that we chose, it wouldn't necessarily be up to
18 that amount.

19 MR. DUBE: We'd probably have to come up with
20 at least a range before posting.

21 COMMISSIONER KLEINSCHMIDT: Has industry had
22 any input on this at this point in time, or would that
23 come with the proposal later, as far as the tracks, you
24 know, it's proposed they pay for this. Have we had any
25 input yet, or would that come in the future?

1 CHAIRMAN STEEN: Well, the proposal for the
2 current set of fees that are proposed by the industry, or
3 some of the industry proposed that we go ahead and have
4 this audit in it, and so nine out of the ten licenses
5 signed that say that they'd be in favor.

6 I don't know if we have anybody else signed up
7 to speak on the subject. It looks like we have
8 potentially one here.

9 (Unable to pick up speaker from the audience.)

10 COMMISSIONER MACH: And, Devon, correct me if
11 I'm wrong, there would still be a comment period,
12 obviously.

13 MS. BIJANSKY: Correct.

14 CHAIRMAN STEEN: Jean, did we have anybody
15 signed up to formally speak on that?

16 MS. COOK: No, sir. And in fact, Mr. Cardwell,
17 really should come up and say that so the court reporter
18 can get that recorded.

19 CHAIRMAN STEEN: Okay. John, would you mind
20 coming up and just repeating what you said so the court
21 reporter can get it as well?

22 MR. CARDWELL: Hi. My name is John Cardwell.
23 I'm an attorney for Lone Star Park.

24 Reference was made that there were nine out of
25 ten that signed the letter. My client, Lone Star, was the

1 tenth that didn't sign the letter. We're fully in support
2 of this audit, more than willing to pay our share. We
3 think it would be a very valuable document, not just for
4 the immediate task of finding additional cuts, but also we
5 hope that it would address the management issues and it
6 would be a powerful instrument that would get used to go
7 to the legislature and show some of the changes that may
8 need to be made.

9 Any questions?

10 CHAIRMAN STEEN: Thank you, John.

11 COMMISSIONER MACH: Mr. Chairman, a lot has
12 been said about cost-cutting, and as I said at the last
13 meeting, I wanted to make sure it was understood that such
14 an audit may indicate the agency is not spending enough or
15 not doing enough, and everybody needs to be prepared for
16 that possibility as well.

17 CHAIRMAN STEEN: Thank you.

18 You know, my view on this is that staff has
19 taken the steps that they think are appropriate in finding
20 ways to cut costs, and I've said this before, as the
21 regulatory body here, we've got a duty to maintain a
22 certain regulatory integrity to the racing that goes on
23 that we regulate.

24 I'm supportive of this because hopefully we
25 find a third party that's an educated third party that can

1 help us take a look at how we're operating. Obviously, we
2 want to operate efficiently but we want to maintain that
3 regulatory integrity which is something that I'm not an
4 expert on, and I think that this is an appropriate next
5 step to see if there's anything else we can be doing
6 better.

7 COMMISSIONER EDERER: I agree with and support
8 the chairman, his comments.

9 CHAIRMAN STEEN: If there's no further
10 discussion, I'll entertain a motion to propose new rule
11 309.13, Supplemental Fee, and to publish the proposal in
12 the *Texas Register* for public comment.

13 COMMISSIONER MARTIN: So moved.

14 CHAIRMAN STEEN: Motion made by Martin.

15 COMMISSIONER MACH: Second.

16 CHAIRMAN STEEN: Seconded by Mach. Any
17 discussion?

18 (No response.)

19 CHAIRMAN STEEN: Okay. Let's take this up for
20 a vote. All in favor please signify by saying aye.

21 (A chorus of ayes.)

22 CHAIRMAN STEEN: Any opposed?

23 (No response.)

24 CHAIRMAN STEEN: That motion carries. Thank
25 you.

1 All right. Moving on to agenda V.A.1. Proposal
2 of amendment to Rule 303.93, Quarter Horse Rules. I
3 believe Rob Werstler is here to present on this item.

4 MR. WERSTLER: Good morning, Mr. Chairman,
5 commissioners. Rob Werstler, representing Texas Quarter
6 Horse Association.

7 Normally staff would lay out the rule change
8 and we're not changing out the way you do things. Anyway,
9 we went over this at the last rules proposal meeting at
10 Sam Houston. It's basically updating a rule for brood
11 mares who are still racing.

12 The rule is antiquated and we're just trying to
13 update it and give those mares that are still racing and
14 have foals through embryo transfer the chance to run
15 throughout the year instead of having to be back in Texas
16 in August.

17 Years ago, before they had embryo transfer,
18 those mares could be bred and still race until mid August,
19 something like that, and that's why the rule was written
20 the way it is, and so what we're asking is that you just
21 extend -- we'd like to extend our rule to the end of the
22 year to allow those mares to continue racing. Some of the
23 better stakes races go towards the end of the year in
24 California and New Mexico.

25 And I'd entertain any questions you might have.

1 Unless you understand that segment of the business, it is
2 very confusing.

3 CHAIRMAN STEEN: Any questions, commissioners?

4 COMMISSIONER KLEINSCHMIDT: Have you had any
5 opposition to this proposal?

6 MR. WERSTLER: No, sir.

7 CHAIRMAN STEEN: Does staff have any -- I know
8 we don't have a recommendation, but does staff see any
9 issues with the proposal?

10 MR. TROUT: No, sir, we have no objection to
11 this.

12 CHAIRMAN STEEN: So this is just a proposal to
13 publish. If there's no further discussion, I'll entertain
14 a motion to propose the amendment to Rule 303.93, Quarter
15 Horse Rules, and publish the proposal in the *Texas*
16 *Register* for public comment.

17 COMMISSIONER MACH: I'll make the motion.

18 CHAIRMAN STEEN: Motion made by Mr. Mach.

19 COMMISSIONER EDERER: Second.

20 CHAIRMAN STEEN: Seconded by Ederer. Any
21 discussion?

22 (No response.)

23 CHAIRMAN STEEN: Okay. Let's take this up for
24 a vote. All in favor please signify by saying aye.

25 (A chorus of ayes.)

1 CHAIRMAN STEEN: Any opposed?

2 (No response.)

3 CHAIRMAN STEEN: That motion carries. Thank
4 you.

5 MR. WERSTLER: Thank you.

6 CHAIRMAN STEEN: The next item is agenda item
7 V.A.2. Proposal of amendment to Rule 321.30, Super Hi-
8 Five. I believe Frank Hopf, of Sam Houston Race Park,
9 will present on this item.

10 MR. HOPF: Good morning, commissioners. Frank
11 Hopf, senior director of racing at Sam Houston.

12 This rule proposal is an additional option for
13 associations to offer payouts on the Super Hi-Five wager
14 that's currently offered at Sam Houston Race Park and I
15 believe at the other Class 1 tracks.

16 This would allow for a new payout that's become
17 similar around the country. If there's one winning
18 ticket, then they would be the only winner, if there's two
19 such winners on a particular Hi-Five wager, there would be
20 a consolation payout, and then the remaining would go over
21 to a carryover pool that would continue to build until
22 there was one such winner, one unique ticket in the
23 system. So it's become more popular around the country
24 and we have seen larger payouts and larger pools offered
25 for that particular wager.

1 CHAIRMAN STEEN: Any questions, commissioners?

2 (No response.)

3 CHAIRMAN STEEN: Is there any opposition that
4 you've run into in proposing this?

5 MR. HOPF: No, not that I'm aware of.

6 CHAIRMAN STEEN: Staff, any issues that you
7 see?

8 MR. TROUT: No, sir.

9 CHAIRMAN STEEN: In that case, if there's no
10 further discussion, I'll entertain a motion to propose the
11 amendment to Rule 321.30, Super Hi-Five, and to publish
12 the proposal in the *Texas Register* for public comment.

13 COMMISSIONER MACH: I'll make a motion.

14 COMMISSIONER MARTIN: Second.

15 CHAIRMAN STEEN: Motion made by Commissioner
16 Mach, seconded by Martin. Any discussion?

17 (No response.)

18 CHAIRMAN STEEN: Okay. Let's take this up for
19 a vote. All in favor please signify by saying aye.

20 (A chorus of ayes.)

21 CHAIRMAN STEEN: Any opposed?

22 (No response.)

23 CHAIRMAN STEEN: That motion carries. Thank
24 you.

25 MR. HOPF: Thank you.

1 CHAIRMAN STEEN: The next item is agenda item
2 V.B.1. Closure of rule reviews of Chapters 301, 303, 319
3 and 321. Devon, I believe you will present on this item.

4 MS. BIJANSKY: Yes, sir.

5 The Government Code requires state agencies to
6 review all the rules at least once every four years and
7 during that review to assess whether the reasons for
8 adopting those rules continue to exist. The Commission
9 opened this rule review in December 2015. There have been
10 no requests for changes in response to the publication of
11 the notice. So at this time staff would recommend
12 re-adoption of those rules in Chapters 301, 303, 319 and
13 321.

14 CHAIRMAN STEEN: Jean, is anyone signed up to
15 speak on this item?

16 MS. COOK: No, sir.

17 CHAIRMAN STEEN: Commissioners, do you have any
18 questions?

19 (No response.)

20 CHAIRMAN STEEN: In that case, I'll entertain a
21 motion to close the rule reviews of Chapters 301, 303, 319
22 and 321.

23 COMMISSIONER KLEINSCHMIDT: So moved.

24 CHAIRMAN STEEN: Motion made by Commissioner
25 Kleinschmidt.

1 COMMISSIONER MACH: Second.

2 CHAIRMAN STEEN: Second by Commissioner Mach.

3 Any discussion?

4 (No response.)

5 CHAIRMAN STEEN: Okay. Let's take this up for
6 a vote. All in favor please signify by saying aye.

7 (A chorus of ayes.)

8 CHAIRMAN STEEN: Any opposed?

9 (No response.)

10 CHAIRMAN STEEN: That motion carries. Thank
11 you.

12 The next item is agenda item 5.B.2. Opening of
13 rule reviews of Chapters 309 and 311. Devon, will you
14 present on this item as well?

15 MS. BIJANSKY: Yes, sir.

16 This item is the opening of rule reviews, the
17 beginning of that same process that we just concluded for
18 those previous four chapters. Chapters 309 and 311 are
19 Racetrack Licenses and Operations and Other Licenses. The
20 Commission last reviewed these chapters in 2013 and so
21 staff would recommend publishing these two chapters in the
22 *Texas Register* for rule review.

23 CHAIRMAN STEEN: Jean, anyone signed up to
24 speak on this item?

25 MS. COOK: No, sir.

1 CHAIRMAN STEEN: Commissioners, questions?

2 (No response.)

3 CHAIRMAN STEEN: In that case, I'll entertain a
4 motion to open the rule reviews of Chapters 309 and 311.

5 COMMISSIONER MARTIN: So moved.

6 CHAIRMAN STEEN: Motion made by Commissioner
7 Martin.

8 COMMISSIONER EDERER: Second.

9 CHAIRMAN STEEN: Seconded by Commissioner
10 Ederer. Any discussion?

11 (No response.)

12 CHAIRMAN STEEN: Okay. Let's take this up for
13 a vote. All in favor please signify by saying aye.

14 (A chorus of ayes.)

15 CHAIRMAN STEEN: Any opposed?

16 (No response.)

17 CHAIRMAN STEEN: The motion carries. Thank
18 you.

19 The next item is VI.A. Allocation of live race
20 dates for horse racetracks for the period January 1, 2018
21 to August 31, 2019.

22 Ricky Walker, I believe you will present this
23 item.

24 MR. WALKER: Good morning, commissioners. My
25 name is Ricky Walker, chief steward for the Texas Racing

1 Commission.

2 On pages 81 and 82 are race date calendars for
3 2018 and 2019 that show the horse racetracks requested and
4 previously granted race dates. On pages 120 through 122
5 are letters from the Texas Horsemen's Partnership, Texas
6 Thoroughbred Association, and the Texas Quarter Horse
7 Association. These three organization are opposed to all
8 three Class 1 racetracks 2018 requested race dates.

9 San Houston Race Park has requested 20 quarter
10 horse dates in 2018, starting on March 30, 2018 and ending
11 on May 12, 2018. Sam Houston has also requested 32
12 thoroughbred dates in 2019, beginning on January 18, 2019
13 and ending on March 16, 2019, and 20 quarter horse dates
14 starting on March 29, 2019 and ending on May 11, 2019.

15 Lone Star Park requested 44 thoroughbred dates,
16 starting on April 19, 2018 and ending on July 22, 2018,
17 and 16 quarter horse dates, beginning on September 21,
18 2018 and ending on November 10, 2018.

19 Retama Park has requested a mixed meet that
20 includes 15 quarter horse dates and 10 thoroughbred dates,
21 beginning on July 6, 2018 and ending on September 5, 2018.

22 Gillespie County Fair requested a mixed meet to
23 begin July 6, 2019 and ending on August 25, 2019. This
24 request is supported by the TQHA, the TTA, the Texas Paint
25 Horse Association, and the Texas Arabian Breeders

1 Association. THP does not support the request.

2 If you have any questions, I'll be glad to
3 answer them.

4 CHAIRMAN STEEN: Say that one more time as to
5 who's in favor and who's opposed?

6 MR. WALKER: For Gillespie County?

7 CHAIRMAN STEEN: Oh, that's just the Gillespie
8 County segment of dates.

9 MR. WALKER: That's just Gillespie County.
10 Yes.

11 CHAIRMAN STEEN: Any questions, commissioners?
12 (No response.)

13 MR. WALKER: Thank you, commissioners.

14 CHAIRMAN STEEN: Thank you.

15 Okay. Start with Marsha Rountree, representing
16 the Texas Horsemen's Partnership

17 MS. ROUNTREE: It's always me.

18 CHAIRMAN STEEN: It's the first card that came
19 in.

20 (General laughter.)

21 MS. ROUNTREE: Marsha Rountree, representing
22 the Texas Horsemen's Partnership.

23 There's so many things I could say in response
24 to some of the things that have been said here today, but
25 in light of the season, I'm just going to keep my mouth

1 shut on those things.

2 Mr. Chairman, commissioners, I believe that
3 we're here today discussing race dates because of an ill-
4 advised agreement, an agreement that you mentioned
5 earlier, Chairman Steen, that resulted in a proposed rule
6 amendment, a rule amendment which would raise the license
7 fees on the Class 1 tracks in order to cover budget
8 shortfalls of the agency.

9 Now, when the agency's budget problems were
10 brought to light, track management, along with breed
11 registries and the Horsemen's organization, met with some
12 of Governor Abbott's staff to discuss this issue, and one
13 thing the Governor's Office made perfectly clear to us
14 all, we were told point blank that Governor Abbott did not
15 want race dates to be cut. Other solutions were his
16 preference to the agency's problems and the industry
17 situation.

18 And so even though this proposed rule regarding
19 a substantial increase in license fees is not on today's
20 agenda, cutting race dates is, and that's very, very
21 concerning to the horsemen.

22 For many, many years I've sat in this audience
23 and watched track management stand at this podium and
24 testify since nothing has changed, we're requesting the
25 same race dates, the same breed splits, status quo has

1 been the catch phrase for all these tracks for all these
2 years because nothing had changed.

3 The rule amendment and the proposal on which it
4 was based are not being discussed today, and yet the track
5 requests to cut days, some of which have already been
6 allocated by this Commission, were all based on that rule
7 amendment and the expectation of large increases in track
8 license fees.

9 Now, the tracks might stand here and testify
10 that they'd already planned on cutting days before this
11 license fee proposal came up, but I think we all know that
12 the imminent increase in fees was the reason behind the
13 request to eliminate days from this racing calendar.

14 We hosted a meeting with all the Class 1
15 racetracks at the THP office and each and every one of the
16 track management told us that they were being forced to
17 cut race dates in 2018 and '19 because of this new rule
18 proposal which was going to raise their license fees.
19 That's what we were told.

20 And now it appears that the tracks are in a
21 win-win situation, they aren't facing large increases in
22 their license fees and they slashed race dates anyway.
23 Lone Star Park has always said that they are in favor of
24 whatever the horsemen want and need -- well, except when
25 they aren't.

1 This Commission has allocated race dates based
2 on the current license fee structure and there is no
3 reason that the Commission should allow those days to be
4 eliminated -- I'm speaking specifically of Lone Star Park.

5 The quarter horse dates have not been allocated by this
6 Commission, but 50 days have been allocated to Lone Star
7 Park for 2018, and the Commission should not allow those
8 days to be eliminated.

9 The tracks should be required to run the days
10 that they've been granted, and the quarter horse days for
11 2018 and '19 should be allocated today but they should be
12 based on the customary calendar of the past several years.
13 It will be setting a dangerous precedent for the first
14 time to allow racetracks to eliminate race days without an
15 agreement with the horsemen.

16 Now, the horsemen are asking the tracks to run
17 their customary calendar and we strongly urge you, this
18 Commission, to require that the racetracks run all of the
19 days that they have been allocated and ask that they
20 continue the same quarter horse schedule that they've run
21 for the past few years. As I've said, track management
22 has stood here and said it over and over again: nothing
23 has changed, so race days should not change.

24 I'll be happy to answer any questions.

25 CHAIRMAN STEEN: I have a question, Marsha. So

1 when you're in opposition of it, is there a specific part
2 of it? You mentioned Lone Star. Are there specific
3 things that you're in opposition or you're in opposition
4 of all?

5 MS. ROUNTREE: We're in opposition to the
6 tracks that have requested to eliminate days to their
7 customary calendar. We're in opposition to Lone Star Park
8 cutting back to 44 race days on a 50-day race meet that
9 they've already been allocated by this Commission for
10 2018.

11 We're in opposition to Sam Houston Race Park
12 requesting to run a 20-day quarter horse meeting, and we
13 are most specifically in opposition to Lone Star Park
14 requesting a 16-day quarter horse meet.

15 Yes, we are in adamant opposition to the
16 requests that these tracks have made because each and
17 every one of these was done immediately after this
18 proposal was put forth to increase license fees for those
19 tracks. Their fees have not gone up and yet they are
20 still requesting that they eliminate days from their
21 calendar.

22 CHAIRMAN STEEN: Any questions, commissioners?

23 COMMISSIONER EDERER: Not just yet.

24 CHAIRMAN STEEN: Thank you.

25 We'll take the other cards that I've got here

1 in order, but if there's representatives -- I don't have
2 anything from representatives from Lone Star or Sam
3 Houston, I'd appreciate if they'd be willing to speak on
4 the matter. Would you like to do that now?

5 John, why don't you let me get through this
6 side of the argument and then we'll switch over to that,
7 but I appreciate your willingness to do so.

8 Next up, Mary Ruyle, please come up,
9 representing the Texas Thoroughbred Association, wishing
10 to testify on the matter.

11 MS. RUYLE: Good morning, commissioners. I'm
12 Mary Ruyle with the Texas Thoroughbred Association.

13 I just wanted to state that the Texas
14 Thoroughbred Association fully supports the position taken
15 by the Texas Horsemen's Partnership. We agree that since
16 there is no immediate fee increase that there should be no
17 immediate decrease in race days.

18 While Houston is running their thoroughbred
19 meet as previous, and we are very grateful for that, we
20 would appreciate having the six days added back to Lone
21 Star. And as far as Retama, the last time that I spoke
22 with their representatives, they were planning a 25-day
23 mixed meet, so to speak, with 12-1/2 thoroughbred days,
24 12-1/2 quarter horses.

25 This morning was the first time that I heard of

1 10 thoroughbred days, which is a ridiculous plan. People
2 are not going to run, or come to Texas or come to Retama
3 to run 10 thoroughbred days, it is completely untenable.

4 Again, I think until the fee structure is
5 changed, these tracks ought to run their allotted days.
6 I'll be happy to answer any questions. Thank you.

7 CHAIRMAN STEEN: Thank you.

8 I guess we'll add Retama to the list of people
9 on the other side as well.

10 Rob Werstler, representing the TQHA, wishing to
11 testify on the matter.

12 MR. WERSTLER: Good morning again, commissioner
13 Steen, members. Rob Werstler, Texas Quarter Horse
14 Association. Pardon my voice.

15 We also -- Texas Quarter Horse Association also
16 agrees with the position of Texas Horsemen's Partnership.

17 You've read the letter I submitted so you know what our
18 stance is as well prior to that.

19 The last time we met in Houston you had not
20 seen the race dates, I asked and you had not seen them. I
21 just wanted today to make sure that you understand the
22 impact and the significance these cuts will have on the
23 Texas live racing and breeding industries. It's a tough
24 situation for everyone.

25 Normally we would get up here with some type of

1 a solution. I don't have that solution, but I can tell
2 you this, arbitrarily cutting days, at Sam Houston they
3 just whacked four days off, we used to have a 24-day, now
4 we have a 20-day meeting, Lone Star Park just cuts 10
5 days, goes from 26 days to 10 days. So now you're going
6 to ask horsemen to come to Sam Houston and run for 20 days
7 and then there's going to be about an 8-1/2 week gap
8 between Houston and when Retama starts because Retama is
9 starting a little later.

10 And I will say this, again, it's a tough
11 situation, but at least Retama Park tried to think outside
12 the box and come up with some type of solution that worked
13 for them and their thoroughbreds, even though they don't
14 agree with that, and themselves.

15 They didn't want to run against Gillespie so
16 they won't be running on those weekends, so that's a plus-
17 plus for our meet because normally we'd be running the
18 same time as Gillespie, so they stretched the meet out.
19 Still it's basically a cut of 20 days to 12-1/2 days for
20 quarter horses.

21 So you're going to ask horsemen, if they even
22 come to Houston -- I'd also like to point out all three
23 racetracks had real trouble filling entries this year at
24 their quarter horse meets. They think that, well, we'll
25 run less days so we'll have the same of horses in fewer

1 races so they'll be full races. That's not how it works.

2 If you have fewer races at our purse structure, you're
3 going to have fewer horses come.

4 So Sam Houston runs their 20 days and now
5 you're expecting horsemen to sit and wait for 8-1/2 weeks
6 to come to Retama and run at their low, low purse
7 structure, the lowest practically in the country, I think,
8 and stay there and run for basically 12-1/2 days, even
9 though it's stretched out from the beginning of July to
10 Labor Day. They're not going to do it.

11 Owners -- Commissioner Ederer, you've owned
12 horses in the past, and to just sit and pay for training
13 is very difficult. So they're going to force them to go
14 someplace, and guess what, they're not coming back.

15 And then you've got Lone Star Park, they're
16 going to run 16 days. They're basically saying they had a
17 nine-week meet, now they're going to eight weeks and we're
18 going to write 12 races a day so we're really not losing
19 that many races. They have no chance to fill eight races
20 a day.

21 What they're going to get, they have two big
22 futurities and derbies, the Dash for Cash and the Texas
23 Classic, they will get two-year-olds and three-year-olds
24 to come for that meet and the rest of the races they're
25 going to have fits trying to fill races.

1 So to echo what Marsha stated, this is going to
2 be -- I mean, we've been in a spiral for a while, but this
3 will be a death spiral for horsemen to where next year I'm
4 afraid the racetracks will come in and say, well, we
5 couldn't fill entries this year, so now instead of running
6 20 days at Houston they're going to want to run 15, and
7 Retama will do the same and then Lone Star will do the
8 same, to where we're not running enough races for horsemen
9 to come. My opinion, what they've applied for there's not
10 enough races for horsemen to come.

11 So that's my two cents' worth. I know you guys
12 are in a tough spot, but so are horsemen, believe me.

13 COMMISSIONER EDERER: So in your opinion, if
14 the tracks -- if this is approved, there's not enough
15 races for the horsemen for quarter horsemen to go to the
16 tracks, to go to Retama, primarily.

17 MR. WERSTLER: Well, the stakes schedule
18 basically brings horses along with it. Sam Houston has
19 the Sam Houston Futurity, so horsemen are going there with
20 their two-year-olds so they'll bring other horses with
21 them, normally. And it's the beginning of the year so
22 they're trying to get out some horses, so they should be
23 okay for their 20-day meet. Retama Park is going to have
24 just fits after an 8-1/2 week gap at their purse
25 structure, and so will Lone Star.

1 COMMISSIONER EDERER: So what are the quarter
2 horsemen going to do?

3 MR. WERSTLER: Well, we have some here today,
4 you may ask them, but I think maybe some will start out at
5 Houston, try and get a horse qualified to the Sam Houston
6 Futurity, and then go to Oklahoma or New Mexico or
7 Louisiana. Louisiana runs year-round, but I think we're
8 going to lose a lot of horses to Remington Park in
9 Oklahoma City and Louisiana. And you can't blame them,
10 you know, sitting around paying training dues for that
11 long with no place to run.

12 CHAIRMAN STEEN: Any other questions of Rob?

13 MR. WERSTLER: Anyway, I just wanted to make
14 sure you understood that.

15 CHAIRMAN STEEN: Thank you, Rob.

16 MR. WERSTLER: Thank you, Chairman.

17 CHAIRMAN STEEN: Up next, Kris Fullerton,
18 representing TTAGPA, wishing to testify on the matter.

19 MS. FULLERTON: Good morning, commissioners.

20 I fully understand that everybody here is in a
21 tough spot, you guys are having your budget crises and the
22 tracks are always trying to cut dates.

23 I just ran a few numbers. Now, back at our ad
24 hoc Finance Committee meeting I gave commissioners Mach
25 and Steen a packet that I had put together comparing

1 Texas's Racing Commission with other states' budgets, as
2 was available.

3 I also broke those numbers down into a cost per
4 race day that each state spent, along with a cover letter
5 explaining that these numbers are subjective because in
6 addition to live racing, commissions are required to
7 regulate simulcast wagering.

8 Now, in Texas all simulcast wagering happens at
9 tracks, even though dog tracks don't run all the time.
10 Other states have OTB parlors that they're required to
11 regulate. When I ran those numbers, it was very telling.

12 Texas came out at the second highest of 20 -- well,
13 slightly the third highest of 20 cost per race day, at
14 \$22,894 Texas Commission spends per live race, dog and
15 horse.

16 Let me give you some comparative examples.

17 CHAIRMAN STEEN: Ms. Fullerton, sorry to
18 interrupt, but are we going to speak on the actual matter?

19 MS. FULLERTON: I am speaking on the days and
20 that's what I'm getting to.

21 CHAIRMAN STEEN: All right. Thank you.

22 MS. FULLERTON: Right now you're at \$22,000.
23 For a good example, California with 29 OTBs and 620 live
24 days of racing spends \$16,000 a day, tough regulated
25 state. They're also in the same boat as Texas in that

1 they rely on wagering for their purse structure and to
2 carry them, they have no outside gambling. Illinois has
3 no outside gambling other than horse racing supporting
4 their racing board. They have 23 off-track betting, 316
5 days of racing, and spend \$14,000.

6 Now, if you guys go through this and you cut
7 days, you're moving further up the ladder, you're going to
8 be at, with dog and horse combined, 181 live days of
9 racing as opposed to 219, and now your cost per day is
10 going up to \$28,839. And that's with comparable states
11 that rely on wagering. Now, these states do a good job,
12 they get a lot of betting, and they're heavily, heavily
13 regulated.

14 So allowing the dates to cut is going to raise
15 your cost per day, even that's figuring in the \$80,000 you
16 said you would save by eliminating race days, according to
17 your line item. I took the \$80,000 out while I was
18 sitting there and reconfigured your cost per race day.

19 Now, earlier you had the wagering report, all
20 sources simulcast wagering is down here, it's down
21 nationwide. Wagering on Texas races is up. It might be
22 up a little but it's up when everything else is down, it's
23 up 1.7 percent on Texas racing. Why in the world would
24 you cut what is up?

25 Lone Star Park, for an example, wanted to cut

1 six days. Their thoroughbred meet ended before our last
2 Commission meeting, and through September 3 their export
3 was up 15 percent when nationwide wagering was down 6.

4 You have people betting on the product. Why in
5 the world would it make sense to decrease the product when
6 you finally have interest and you have people on it? Lone
7 Star's numbers overall on wagering for the thoroughbred
8 meet were up 4.2 percent.

9 I don't have the quarter horse numbers
10 available to me. That meet was after our last meeting.
11 Why in the world would you cut it by over 10 percent the
12 amount you're offering when it's up 4 percent? If we have
13 Texas product selling, why in the world are we going to
14 put less of it on the market?

15 I think that's all I have.

16 CHAIRMAN STEEN: Any questions?

17 MS. FULLERTON: I like numbers.

18 CHAIRMAN STEEN: Thank you for your comments,
19 and I think that's a great question for the tracks that
20 you're asking.

21 MS. FULLERTON: Thank you very much.

22 CHAIRMAN STEEN: Steve or John, I'd like to
23 hear from each of the tracks on the matter, if we could.

24 MR. CARDWELL: Hi. I'm John Cardwell, Lone
25 Star Park.

1 I think everybody knows and understands how we
2 got to where we are at this moment, which is we're in a
3 process, and some people are making the assumption that
4 this process is over with and that the fees are not going
5 up.

6 I don't see that at all. If I believe, and I'm
7 inclined to believe, the other track license holders, I
8 understand that we'll probably have some licenses tendered
9 this year. I don't know what they're going to do, I don't
10 have any control over it, but they have certainly told us
11 over and over that that's what they intend to do.

12 If we don't change the fee rule, my
13 understanding is that my fees at Lone Star Park are going
14 up if somebody tenders their license back in. So I think
15 we're still studying the fee situation.

16 I do think, I hope that the prior fee which was
17 proposed -- or fee rule, I should say, I hope it doesn't
18 go through because I thought it was horribly inequitable,
19 but my client has been asked and has discussed and didn't
20 give a flippant answer to: Are you willing to go forward
21 even if it means every other license holder tenders their
22 license, are you prepared to see your fee go from \$600,000
23 to \$3 million?

24 And my client said, Yes, we're that committed
25 to racing in Texas. And now we're being criticized

1 because two months ago, under a completely different fact
2 situation, we came up with a proposal to fit a rule that
3 appears it's not going to go forward, but I don't know if
4 it is or not.

5 Nine out of ten licenses said that's what they
6 wanted. So Lone Star, who ran more than any other track,
7 not 25 days but 76 days, has cut 16 days two months ago in
8 response to a rule that appears is not going forward.

9 So I understand you're upset because what we're
10 really all upset about is what Bob said, we've got a bad
11 situation, we're in a bad spot. I remember when I first
12 started representing Lone Star nine or ten years ago this
13 time -- I represented them 25 years ago when they got
14 their license -- I remember somebody saying, when there
15 was a real acrimonious fight between the quarter horse
16 guys and the thoroughbred guys, is our problem is that we
17 fight harder and harder over a pie that gets smaller and
18 smaller, and what we need to find a way to do is to make
19 this pie get bigger and bigger so that we don't have to
20 fight so much.

21 And I hate being up here, I hate hearing Lone
22 Star being talked about the way it is, but Lone Star is
23 not going away. Scott Wells absolutely talked to me,
24 Marsha, and if we can make a change, we'll make a change,
25 but there are things such as budgets, ticket sales,

1 marketing that plans have got to be made, arrangements had
2 to be made between the tracks about who's running when and
3 who's running some other time, and so personally I see
4 this as a fluid situation.

5 I don't know what the Commission's intentions
6 are as far as letting people cut race days or not cut race
7 days, but we were just responding to a rule that looked
8 like it probably was going to pass at the time because it
9 got published and it got approved by the Commission as
10 something they wanted to pursue.

11 You know, we're not voting on it today but that
12 doesn't mean that the situation won't change, and I have
13 absolutely no idea other than what I read in the Wall
14 Street Journal, but I read that Penn is buying Pinnacle,
15 and if I understand the rules correctly, and I may not,
16 that means that Penn now is going to have interest in four
17 licenses, and I believe we have a rule that you can only
18 have three licenses. So I guess a change is going to be
19 made there some how, some way.

20 So we're sitting here, those cuts are the cuts
21 that we have as of right now in a very fluid situation,
22 and we're going to keep coming to these meetings and keep
23 answering the phone and keep working to try to keep the
24 industry afloat and we're going to run more than anybody
25 else is going to run.

1 Any questions? Yes, sir.

2 COMMISSIONER KLEINSCHMIDT: Not Lone Star in
3 particular, but the tracks in general, could you briefly
4 list for me the major considerations that would go along
5 with the proposal to reduce race days?

6 MR. CARDWELL: First budget, fees, there's a
7 marketing program, there's ticket sales, and then as to
8 the actual days and mix of races they've got to deal with
9 the horsemen, quarter horse guys and the thoroughbred
10 guys, and then as far as coordinating with the tracks,
11 because like they talk to us, this is a business, these
12 people -- we set these days but these people have to go
13 get their horses, have them ready to run at a certain
14 time, get them in trailers, get them there, get them
15 trained. So there's a lot of coordination going on and so
16 it's kind of hard to start and stop, and we're doing a lot
17 of that because of the economics now.

18 COMMISSIONER KLEINSCHMIDT: Well, are you
19 saying that the tracks, in proposing to reduce days, that
20 due to increased costs of providing those factors that
21 it's just purely a loss of money choice?

22 MR. CARDWELL: No, it's not at all. All those
23 other factors -- we lose \$2- or \$3 million a year, I don't
24 know what the number is but it's filed with your agency.

25 COMMISSIONER KLEINSCHMIDT: But I mean, is

1 there a factor, just in the industry so for someone like
2 me, rule of thumb, if you have a race day are you saying,
3 well, okay, we're going lose X thousand dollars or X
4 percentage? There's no rule of thumb there that you can
5 sort of plug in?

6 MR. CARDWELL: No, sir, because every one of us
7 makes money on Kentucky Derby day, everybody comes in to
8 the simulcast, everything goes great. If you have a
9 Triple Crown winner running, you're going to make money
10 that day.

11 But on a Wednesday or a Thursday with no really
12 great horses and something competing somewhere else, you
13 may lose a good bit of money. As a general rule, my
14 understanding -- and I'm just a lawyer, I don't access
15 financials very much -- just as a general rule, the tracks
16 lose more money on a day they're open than they do on a
17 day that they're not open and they have simulcasting, but
18 that's not true every day. There are profitable days,
19 Kentucky Derby day being a perfect example of it, and if
20 we have a Triple Crown winner, Belmont day would be big
21 too.

22 CHAIRMAN STEEN: What would make you add these
23 days back, what would you be looking for?

24 MR. CARDWELL: I'm not the person to ask that,
25 you'd have to ask Scott Wells, our general manager. But

1 talking to the horsemen, these guys make a great point, if
2 the meet is not long enough and the races that you're
3 permitted to run are spread out so far, you can't justify
4 putting a horse in a trailer and going there.

5 CHAIRMAN STEEN: So you're not having those
6 conversations now? When you say talk to the horsemen, is
7 that not?

8 MR. CARDWELL: I'm not. I can't say what the
9 people at Lone Star that work in the office are actually
10 doing, but I'm not doing it.

11 CHAIRMAN STEEN: I guess a question for staff,
12 we can add back days to the schedule if need be?

13 MR. TROUT: Yes, sir.

14 CHAIRMAN STEEN: Any other questions of Mr.
15 Cardwell?

16 MR. CARDWELL: Oh, come on, Commissioner, you
17 got it.

18 COMMISSIONER EDERER: I've got to say
19 something. Of course you can add back days, but it's kind
20 of like will they add back days. Possibly.

21 My question to you is this: you seem to be
22 basing the reduction of days on the increase of fees or
23 the loss of license contributions. You're concerned that
24 some of these folks are going to turn in their license.

25 MR. CARDWELL: I think it's the same thing.

1 We're going to pay more to the agency, whether it's fees
2 or somebody dropped out and we have to cover for it, but
3 in the way those rules were set up, it was a real high per
4 diem fee after you paid your base fee, so there was a
5 financial disincentive put in to have any more days -- to
6 your example, too many days that were not premium days.
7 So the more days you ran that were not premium days when
8 you have this high of a fee, they were making that
9 adjustment.

10 Now that's not in front of me right now, that
11 rule is not being voted on, so it's a different situation,
12 but I don't think we've avoided this financial crisis,
13 from what I saw this morning what Chuck showed us, so I
14 think we've still got to figure out how we're going to pay
15 for this.

16 COMMISSIONER EDERER: If the fees were to
17 remain the same and the licenses were to stay intact and
18 continue to pay what they're paying, would you still be
19 requesting reduction of race days?

20 MR. CARDWELL: I think there might be a
21 requested reduction of race days because Lone Star talked
22 about reducing racing days last year but as a matter of
23 the industry, because there's so many bad things happened
24 last year, they didn't reduce the days, but they would not
25 have reduced them as many days that they proposed about

1 two months ago to reduce them. So there might have been
2 six days, I don't know, because again, I'm a lawyer, I'm
3 not in the office.

4 COMMISSIONER EDERER: I remember, and I
5 remember the discussion. The days were not as dramatic as
6 they are now. Tell me this, and I don't know if you can
7 answer this question, you've alluded to the fact that in
8 your opinion, or you have been told -- I don't know if you
9 said fact -- that some of these folks that are sitting out
10 there with these Class 2 licenses are going to throw them
11 in. Have you been specifically told that there's going to
12 be Class 2 licenses that are going to be thrown in?

13 MR. CARDWELL: I have heard that from numerous
14 sources in the negotiations over the rule that got
15 proposed saying that if we didn't pass that rule which
16 granted them -- them being the Class 2 licenses and the
17 greyhound tracks -- the reduction in fees that they then
18 all intended to turn their licenses in. But they also
19 have a lawsuit going on, and I can't say what they're
20 going to do. I have to believe them.

21 COMMISSIONER EDERER: I understand.

22 Under what circumstances would you come back to
23 the Commission and ask for your days back or more days?

24 MR. CARDWELL: Historical racing is granted.

25 (General laughter.)

1 MS. ROUNTREE: (Speaking from audience.) It's
2 the same procedure to ask for reduction in days as it is
3 to ask for them to come back, so you can go forward with
4 your customary days and it's the very same procedure to
5 come back and request a reduction later when you see the
6 fees go up rather than in anticipation of fees going up.

7 MR. CARDWELL: Okay. But we have not avoided
8 financial crisis because one proposed rule didn't get
9 approved. They still have a deficit and we still have a
10 lawsuit and we still have five license holders that say
11 publicly -- Mr. Moltz said it -- said publicly if they
12 don't get a reduction they're turning their licenses in.
13 We had to change that because they didn't vote today on
14 this rule. I don't know how it's going to end up, I
15 really don't.

16 MS. ROUNTREE: (Speaking from audience.) But
17 Lone Star Park has been allocated 50 days by this
18 Commission, it's on the calendar, on their website, I've
19 got a printed out copy here.

20 It would be just the same procedure to come
21 back next year, when we see an increase in license fees,
22 and request a reduction in those days as it is today.
23 It's just as easy to ask for a reduction as it is to come
24 to this Commission and ask that days be added back.

25 MS. COOK: Mr. Chairman, if they want to speak,

1 they need to come to the podium, please.

2 CHAIRMAN STEEN: Okay.

3 MS. ROUNTREE: I'm not speaking anymore, I've
4 spoken enough for today. Well, except for marketing and
5 ticket sales, that's a problem.

6 MR. CARDWELL: Marsha, what do I do for a
7 living? Do I sell tickets?

8 MS. ROUNTREE: No.

9 MR. CARDWELL: I talk to my client and they
10 tell me what the situation is, and I stand up and I
11 repeat.

12 MS. ROUNTREE: I'm not criticizing your
13 profession. You do your job very well and you represent
14 Lone Star Park very well and always have. I respect that,
15 John. It would be very helpful if Lone Star Park's
16 management would actually come to meetings and speak for
17 themselves rather than you have to be the intermediary.

18 What I'm trying to say is when you use ticket
19 sales and marketing as a reason to cut race days, it makes
20 no sense, and I'm sure that you didn't come up with this,
21 it came from Lone Star Park.

22 But ticket sales and marketing are based on
23 race days, and it would seem to me that the successful
24 meets that you have for this year, that the more race
25 dates you add, the more ticket sales you have, the more

1 opportunities for the marketing department to add group
2 sales back in. So using ticket sales and marketing as a
3 reason to cut race dates makes no sense to me.

4 MR. CARDWELL: I apologize, I misstated. They
5 didn't cut because of that, they cut because of the rule.
6 The question, I thought, was could they add, and I asked
7 can we add back what has been cut, and they said the
8 problem is we've moved forward with the budgeting process
9 and the marketing process and the ticket sales process.
10 Didn't say they can't undo it but they have published what
11 the race schedule is.

12 MS. ROUNTREE: I agree. Lone Star Park and Sam
13 Houston Race Park -- I haven't seen Retama's, I don't
14 think they have -- Lone Star Park and Sam Houston Race
15 Park's marketing departments have published their 2018
16 calendars based on a racing calendar that is yet to be
17 approved by this Commission. So they've gone ahead and
18 published their calendars without the approval of this
19 regulatory body.

20 So I'm done.

21 MR. CARDWELL: So chastised.

22 COMMISSIONER MACH: I have a legal question.
23 When we talk about allocating race dates, are those dates
24 just reserved for the tracks or are the tracks required to
25 run on those days?

1 MR. TROUT: They're required to run.

2 COMMISSIONER MACH: So this is not just, okay,
3 hold these dates for me and I can use them or not, this is
4 if I'm given these dates I have to run.

5 MR. TROUT: They have to run them or they have
6 to come back to the Commission and ask for permission to
7 not run.

8 COMMISSIONER MACH: So why is the calendar
9 being published?

10 MR. CARDWELL: Well, then, Chuck, how many
11 paper licenses have had race days that they've never run
12 in the history of this Commission?

13 MR. TROUT: Well, that has happened.

14 MR. CARDWELL: Hundreds of days.

15 MR. TROUT: But in every case when your active
16 racetracks have wanted to cut race days, they've come to
17 the Commission.

18 MR. CARDWELL: That's right. And we were asked
19 to submit a calendar, and if we need to change the
20 calendar, we'll change the calendar. But guys, we all
21 know things are changing here on a daily/weekly basis, and
22 if you don't approve it, then we're going to go back and
23 we're going to publish what our actual race calendar is.
24 But today is a very different day than two months ago over
25 what we all thought was about to happen, and that's the

1 problem we have in a bad financial situation, you've got
2 to keep changing.

3 COMMISSIONER EDERER: But you have not
4 published according to reduction of days. Is that
5 correct?

6 MR. CARDWELL: If Marsha says we have, we have.
7 I haven't seen it personally. I was asked by Jim Scheer
8 [phonetic] to call Scott Wells. I said, Can we add days
9 back? He said we could but we've done all these other
10 things, we've done our budgets, we've done our marketing
11 program, we've done our ticket sales, all those sort of
12 things that a business does prospectively, it would be
13 hard to change all that, but you know, if we have to
14 change it, we can change it. The cut was made because of
15 the proposed new fee rule.

16 CHAIRMAN STEEN: I thought I heard you say that
17 the cut would have been made -- some cut would be made
18 even if --

19 MR. CARDWELL: Some cut. I told you last
20 spring that we were going to cut a little bit because we
21 were going to have done it before but then historical
22 racing got killed and a bunch of other things happened, so
23 we said just as a business matter for the industry we're
24 not going to cut any more days, but we were running a
25 fixed 76 days, and so there was a discussion we probably

1 ought to go on and do that.

2 I wasn't privy to it because I'm not in that
3 part of the business, but they did tell me that. But then
4 this cut that takes us down to, I believe, it's 60 days,
5 that was in response to the request from the Commission to
6 come up with different race days in response to this
7 proposed fee rule.

8 And the answer is Jim asked me if we cut to 60
9 can we add the days back, so I misspoke, that's what that
10 was about.

11 CHAIRMAN STEEN: Any other questions of Mr.
12 Cardwell, or should we hear from the other tracks as well?

13 MR. CARDWELL: Thank you, sir.

14 CHAIRMAN STEEN: Steve Ross, speaking on behalf
15 of Retama.

16 MR. ROSS: Commissioners, I'm Steve Ross from
17 Retama Park, director of racing operations.

18 I've been taking notes as people have presented
19 their comments and I would like to respond to several of
20 those and then I'm happy to answer questions, and this is
21 in no particular order.

22 When Ricky spoke of our race dates, I think he
23 misspoke. We have 12 thoroughbred days, 12 quarter horse
24 days, and one day that we plan on running a mixed meet,
25 five races thoroughbred, five quarter horse, and Ricky

1 initially had something like 10 and 14, or whatever it
2 was, but it wasn't the balance, and that's what Mary was
3 reacting to.

4 CHAIRMAN STEEN: Okay. Ricky, is he correct?

5 MR. WALKER: That is correct.

6 CHAIRMAN STEEN: Okay. Thank you.

7 MR. ROSS: Secondly, the meeting that took
8 place at the THP office when Marsha said that all of the
9 tracks -- well, two things she said, she said, one, that
10 nothing has changed.

11 Well, a lot has changed in terms of applying
12 for historical dates, handle is significantly down,
13 attendance is down, the purse account is down, so
14 something has changed. And what we expressed at Retama
15 Park, our reasons for applying for less days had to do
16 primarily with our purse account. That was the number one
17 factor, being able to earn enough purses by the time the
18 meet started and throughout the meet so that we could pay
19 those purses without a large overpayment.

20 Secondly, I've said this before -- a lot of
21 people seem to just don't care -- it's very expensive to
22 run a live racing day. In fact, the number that just hits
23 me, we earn about as much in commission on a live racing
24 day as it costs us to do the drug testing. That's mind-
25 blowing to me.

1 And we estimate for a live race day it's
2 somewhere in the neighborhood of 40- to \$45,000 to conduct
3 a live race day. That's with drug testing fees, ambulance
4 fees, TV services, starting gate, and then the additional
5 labor that's required to do that. So it is truly a money-
6 losing proposition to run a live race day anymore.

7 And the topic of does the increased license fee
8 contribute to that, maybe a little bit, but it is not the
9 deciding factor for us. We would have had to do this
10 regardless of the increase. If we had been on the
11 historical fee structure, we'd be making the same request.

12 CHAIRMAN STEEN: Do you have an estimate for --
13 I mean, let's talk about the historical fee structure,
14 what portion of that 40- or 45- a day do you attribute to
15 regulatory? I don't mean to put you on the spot.

16 MR. ROSS: I'm sure I could do the math. I
17 mean, if we did 500 divided by -- that fee, if you look at
18 it, you've got to allocate that over 360-some-odd days of
19 simulcasting, you've got to do live racing days, and how
20 you allocate that. I could say, oh, I think it shouldn't
21 really cost that much to regulate a simulcast day because
22 there's nobody at the racetrack, so maybe that's \$500 a
23 day, I don't know, and then you take the rest and you kind
24 of divide it.

25 CHAIRMAN STEEN: But you're saying it's not

1 really a factor in deciding --

2 MR. ROSS: Minor factor.

3 CHAIRMAN STEEN: -- minor factor in deciding
4 to run a race day or not.

5 MR. ROSS: Sure. Because if you're paying
6 \$45,000 anyway, you know, the \$6,400 over and above the
7 20, it's a percentage of our fees but it's not half our
8 fees, you know, it's an eighth of our fees or something.
9 We can't afford to pay more fees but that's not the
10 deciding factor. It's mostly purses and then, of course,
11 that we lose money every day doesn't help you if you
12 wanted to run more live race days.

13 Any other questions before I move on to my
14 other commentary?

15 This idea that we won't get horses for a
16 quarter horse meet, that is speculation. If you recall,
17 back in September, Retama Park was in the position of
18 having to either cut some days off of its thoroughbred
19 meet, additional days, or reduce purses. And you know,
20 people -- I can't quote any individuals -- if you reduce
21 purses there's going to be this mass exodus of
22 thoroughbreds, they're going to leave.

23 Well, that didn't happen. The fact is we cut
24 the purses about 25 percent for the period of late
25 September through early November, and our field sizes were

1 constant or were increased. We had really amazingly good
2 races for the purses that we offered, I must say. Yeah,
3 you can think, oh, logically purses are down, guys are
4 going to go somewhere else, but that wasn't the case in
5 that particular instance.

6 So you know, quarter horse guys will have a
7 place to go. June 1, we talked to Rob about this, and we
8 will open the barn area earlier than required or allow
9 them to come in, and so long as they are current on the
10 money that they owe for stall rent, they will be able to
11 stay there for free and train in the month of June instead
12 of the ten days out before the meet starts, so it's a
13 little concession there to help those guys have a place to
14 go.

15 I think that's all I have. I'll be happy to
16 answer any questions.

17 COMMISSIONER EDERER: Overall your reduction of
18 dates is how many?

19 MR. ROSS: Well, over the --

20 COMMISSIONER EDERER: '18.

21 MR. ROSS: Over '18 it would go from 42 to 25.

22 And Bill will confirm this, this is with a transition
23 year our intention is to run more in 2019, although it
24 probably won't get to the 42 to 46, it will be something
25 probably in the 30s.

1 COMMISSIONER EDERER: '19 the same?

2 MR. ROSS: That would be in '19; '18 it's the
3 25. And we did that, as Rob mentioned, it's a little
4 unorthodox schedule we have, starting with quarter horses,
5 staying off of Gillespie because historically that's hurt
6 us, it's probably hurt Gillespie too, it's hard to get
7 stewards and jockeys and the like.

8 Then we will start thoroughbreds when Lone Star
9 is finished, and it's an unorthodox schedule, it's
10 Tuesday-Wednesday thoroughbreds, and Friday-Saturday
11 quarter horses. And we've tried to maintain our quarter
12 horse stakes schedule as well as we can with trials and
13 futurities.

14 Is that it?

15 CHAIRMAN STEEN: Thank you.

16 MS. RUYLE: Can I ask a question, please?

17 MR. ROSS: Sure.

18 MS. RUYLE: Steve, please help me with this.

19 Mary Ruyle, Texas Thoroughbred.

20 The question is purses versus race dates, in my
21 mind purses are what they are, people have horses in Texas
22 that need to run and when you have limited numbers of race
23 dates and a limited time period, in your opinion how many
24 times can a horse get in to race at Lone Star --

25 MR. ROSS: At Retama?

1 MS. RUYLE: -- excuse me -- at Retama under
2 your planned meet?

3 MR. ROSS: Well, you know, I'm not a
4 veterinarian.

5 MS. RUYLE: Saying everything is lovely with
6 the horse, how many opportunities does he have to race?

7 MR. ROSS: Every week.

8 MS. RUYLE: You're going to write a race with
9 that horse every week?

10 MR. ROSS: I will tell you, I mean, I'm not
11 saying that this is a good thing for the horse, but I will
12 tell you that during our meet we have guys that enter
13 their horses every week. Prince Isaac ran seven times at
14 the meet, he was entered before he ran, a lot of horses
15 did that. Now, I'm not saying that's -- I'm not taking a
16 position on that that that's good.

17 MS. RUYLE: That may be the exception rather
18 than the rule?

19 MR. ROSS: We have a lot of horses that run a
20 lot of times because they have opportunities and they ran
21 them. Now, is it better to go two weeks out? Probably
22 for the horse.

23 MS. RUYLE: I'm just concerned, and I've heard
24 this from some of my members, those folks that are near
25 Retama, yeah, they're going to run, but if somebody is

1 having to come in, they're not going to come in and pay
2 their per-day training fees not knowing if they can get
3 their horse in more than twice in a particular period,
4 it's not worthwhile to them. That's a big concern to the
5 Texas horsemen. And I understand that there are
6 exceptions but it is a concern.

7 MR. ROSS: All I can say is that was not the
8 experience at the meet, although I will say they were
9 there already, I'll grant that, but they did not leave,
10 they ran.

11 MS. RUYLE: And your meet covered how many
12 weeks?

13 MR. ROSS: It was September 1 through -- it was
14 22 days, September 1 through November 11.

15 MS. RUYLE: And we're talking about this meet
16 being what?

17 MR. ROSS: Well, the thoroughbred portion of
18 it?

19 MS. RUYLE: Yes.

20 MR. ROSS: July 31 through September 5.

21 MS. RUYLE: So that's a difference of a few
22 weeks?

23 MR. ROSS: For sure, no doubt. Look, I'm not
24 saying it's ideal. Believe me, if I had a printing press
25 in the basement printing \$100 bills, things would be

1 different, but that's not the case.

2 MS. RUYLE: Right.

3 I just want to make the point to the
4 commissioners that dates are critically important, not
5 just at Retama but at all of the racetracks, because
6 people are planning what their horses are pointing to for
7 particular races and if they don't think those horses are
8 going to be able to race, they're not going to go there,
9 it's not productive for their financial plan and for the
10 horses, so that's why horsemen are concerned about those
11 things.

12 Thank you.

13 MS. ROUNTREE: I do have to make a comment.

14 Sorry, Mr. Chairman.

15 CHAIRMAN STEEN: Please come back up.

16 MS. ROUNTREE: I can't let this one pass.

17 Marsha Rountree again.

18 Steve made the comment earlier when he was
19 pointing out that just because you cut purses the horsemen
20 are not going to leave in droves.

21 I would like it to be on the record that Retama
22 Park came to this Commission at the last meeting and
23 requested that race days be cut from the thoroughbred
24 meet, they wanted to eliminate days of that thoroughbred
25 meet.

1 It was the Texas Horsemen's Partnership; Jan
2 Haynes and I stood at the podium with Mr. Ross and Mr.
3 Belcher, and said we would rather you cut purses than cut
4 days. So I just want that to be on the record that they
5 were trying to cut race days then and we requested that it
6 was purses and not days, and they agreed to that.

7 MR. ROSS: That is absolutely true and that
8 worked out better than I could have imagined.

9 MS. ROUNTREE: See, sometimes we know what
10 we're talking about.

11 MR. ROSS: It did, that did work.
12 Anyone else?

13 (General laughter.)

14 CHAIRMAN STEEN: Thank you, Mr. Ross. I think
15 we'll give you a break for a little while.

16 MR. ROSS: I'm happy to answer any questions.
17 I just want the real picture to be out there.

18 CHAIRMAN STEEN: I appreciate that.
19 Anyone from Sam Houston?

20 MR. BERUBE: Good morning, Mr. Commissioner.
21 My name is Dwight Berube, and I represent Sam Houston Race
22 Park today.

23 We open in January with a 32-day thoroughbred
24 meet, which has already been approved, and before you
25 today is our application for 20 quarter horse dates for a

1 meet that immediately follows that thoroughbred meet. We
2 have historically in the past number of years run 24 days
3 of quarter horses, yet we only chose to submit for 20
4 dates in 2018.

5 We have had internal discussions for years
6 about potentially reducing the number of quarter horse
7 dates for financial reasons, as the entire quarter horse
8 meet is not necessarily great for us financially but
9 especially as we head toward the end of the quarter horse
10 meet as we have competition from Delta Downs in Louisiana
11 who opens up toward the end of our meet.

12 A lot of horses and a lot of wagering moves
13 toward Delta, and then as we get to the very end of the
14 meet, we have the competition of New Mexico, Ruidoso,
15 where a lot of the horsemen are moving on to New Mexico.
16 And we had chosen initially to request six less quarter
17 horse dates, but we decided ultimately to go with 20
18 dates, and that's where we are today.

19 CHAIRMAN STEEN: Any questions?

20 COMMISSIONER EDERER: You're requesting to
21 reduce quarter horse by two days.

22 MR. BERUBE: By four.

23 COMMISSIONER EDERER: By four.

24 MR. BERUBE: Yes, sir.

25 COMMISSIONER EDERER: And thoroughbreds none.

1 MR. BERUBE: By none.

2 And additionally, I would like to mention that
3 we also applied for 2019 dates with the same 32
4 thoroughbred and the same 20 quarter horse, so there's no
5 intention on the part of Sam Houston Race Park to continue
6 to reduce dates moving forward.

7 COMMISSIONER EDERER: And this decision is
8 based on the economy, not necessarily any consideration of
9 any increase in fees?

10 MR. BERUBE: That's true; however, I will tell
11 you the supplemental fee just put it over the top, it was
12 the icing on the cake.

13 CHAIRMAN STEEN: Any other questions?

14 (No response.)

15 MR. BERUBE: Thank you.

16 CHAIRMAN STEEN: Does staff have any
17 recommendations or issues that need to be discussed?

18 MR. TROUT: No, sir.

19 CHAIRMAN STEEN: Any further discussion by the
20 Commission?

21 COMMISSIONER EDERER: Just for clarification,
22 as I understand it, Sam Houston is going to reduce its
23 quarter horse by four, thoroughbreds remain the same, Lone
24 Star is reducing thoroughbred by four. Is that correct?

25 MS. FULLERTON: (Speaking from audience.)

1 Thoroughbreds by six at Lone Star.

2 COMMISSIONER EDERER: Thoroughbreds by six, no
3 reduction to quarter horse?

4 MS. FULLERTON: Quarter horse by 16 -- no by
5 10.

6 COMMISSIONER EDERER: Sixteen at Lone Star.
7 Say again.

8 MS. ROUNTREE: (Speaking from audience.) There
9 are six thoroughbred days reduction at Lone Star, 10
10 quarter horse days reduction at Lone Star.

11 COMMISSIONER EDERER: Okay. That's what I
12 wanted to know.

13 And Retama is 17 quarter horse days.

14 MS. ROUNTREE: Twelve.

15 MR. ROSS: Just to be clear, Retama raced 20
16 quarter horse days this year, it would be 12 in 2018, so
17 for a reduction -- well, it will be 12-1/2, so it's 7-1/2
18 quarter horse days and 20 to 13-1/2 -- the half day messes
19 me up, but yeah, we're losing more thoroughbred days than
20 we are quarter horse days.

21 COMMISSIONER EDERER: The same question that I
22 asked Sam Houston, as far as the consideration that Retama
23 has taken it is the economy that is causing this and not
24 the potential raising of fees?

25 MR. ROSS: Well, sure. As I said earlier, for

1 us it's largely to do with our purse account and how can
2 we generate the purses by the time we run the live race
3 meet to be able to have the money to pay them out, and
4 then the overall expense of running a live race day, of
5 which the fee is a piece of that.

6 CHAIRMAN STEEN: Any further thoughts?

7 COMMISSIONER KLEINSCHMIDT: I have a question,
8 if I can. Do we as a Commission have to approach this on
9 a request-by-request basis, or do we have the latitude to
10 treat it -- not saying a number but say if we said, well,
11 okay, our approach is you can't reduce less than 20
12 percent in any category the days you had the prior year,
13 or do we have to approach this on a request-by-request
14 basis? Can we do an across-the-board decision or do we
15 have to do it on a blow-by-blow basis?

16 MR. TROUT: You mean track-by-track?

17 COMMISSIONER KLEINSCHMIDT: Track-by-track.

18 MR. TROUT: You can deal with it on a track-by-
19 track basis if you'd like.

20 COMMISSIONER KLEINSCHMIDT: But can we deal
21 with it on a more global basis if we'd care to approach it
22 that way.

23 In other words, if we said, okay, we would
24 allow reductions not to exceed 20 percent of any category
25 of days you had in the prior year, and then they made

1 their own decision as to how they took it so long as they
2 didn't exceed that number, or does it have to be taken up
3 track-by-track? Can we take a more global approach or
4 does it have to be taken up track by track?

5 MS. BIJANSKY: If you wanted to go in that sort
6 of direction, I imagine that would mean not approving the
7 race dates today, and you could, I think, issue that sort
8 of guidance to the tracks to come back with new proposals.

9 COMMISSIONER KLEINSCHMIDT: Thank you.

10 COMMISSIONER MACH: It seems like we're in one
11 giant holding pattern.

12 CHAIRMAN STEEN: Certainly we're in a period of
13 uncertainty, that's the case. I'm not sure that we can
14 tell, as the Commission, the tracks how many days they
15 should run or not run. We have the ability to allocate
16 those days but I'm not sure that we can dictate the number
17 of days they have to run. Is that a true statement?

18 MS. BIJANSKY: Yes, I would agree in general
19 that's fair.

20 CHAIRMAN STEEN: I know it's not ideal. It
21 sounds like adding back later is a possibility, not ideal
22 for the tracks or the horsemen. I think what I'm hearing
23 today, though, is that this is largely to do with other
24 macro issues rather than the outstanding fee proposal
25 itself.

1 COMMISSIONER EDERER: Well, I think all the
2 tracks have said that the fee proposal increase is not the
3 main reason for the request for reduction in days, it's
4 the economy. And of course, the horsemen, they're caught
5 in the middle of everything, not only the economy but
6 everything else.

7 MR. GASTON: I'm Bob Gaston, I'm president of
8 Texas Quarter Horse, but I'm speaking mostly for myself as
9 a horseman.

10 I can't run in Texas with limited days because
11 where else would I go? If I go to Oklahoma, I'm faced
12 with clenbuterol rules. I can't race in Texas without
13 using clenbuterol, which is legal, but in order to compete
14 I've got to use it, but if I go to Oklahoma I can't and I
15 can't take my horses from Texas and go to Oklahoma or New
16 Mexico or California because they have hair testing which
17 would show that you've used clenbuterol in the last six
18 months, so as a horseman I'm not even going to run in
19 Texas, which makes the problem of filling races a little
20 bit harder.

21 That's about all I have to say. Any questions?

22 COMMISSIONER EDERER: Clenbuterol is still up
23 in the air. Isn't that correct? As far as the --

24 MR. TROUT: Yes, sir. We're moving toward the
25 same rules that Oklahoma and New Mexico have, it's just a

1 matter of getting there.

2 COMMISSIONER EDERER: So eventually it's going
3 to -- I anticipate it's going to be illegal to use in
4 Texas also.

5 MR. GASTON: That's great. I'm on the
6 President's Racing Council AQHA, and we've been working on
7 that with Jack.

8 COMMISSIONER EDERER: So then you're out of
9 business.

10 MR. GASTON: Well, if we get it passed, when we
11 get it passed, then I can race in Texas, I can race in
12 Oklahoma, I can race in New Mexico, California. I can't
13 race in Louisiana, but they're working on changing that
14 too.

15 MS. FULLERTON: Can I clarify? Excuse me.
16 Kris Fullerton.

17 I think being a horseman I kind of know what
18 Mr. Gaston is saying by he can't race here. If there are
19 people that are racing only in Texas that are allowed to
20 race on clenbuterol, it's detrimental to his horses to not
21 be on it, it puts him at a disadvantage.

22 If he races here he uses it to keep an
23 advantage with the people that only run here and match
24 race, then he can't go to the other states. So what he's
25 saying, with the reduced days he's just going to have to

1 go to the other states total and not run here at all, I
2 believe -- that's the way I translate it.

3 MR. GASTON: Yes.

4 MS. FULLERTON: I don't think he said that when
5 you'd stop clenbuterol he's out of business, that's not
6 what he meant at all. He meant when you stop clenbuterol,
7 it broadens -- he's not restricted, he can run in Texas
8 and there, but right now he can't run --

9 COMMISSIONER EDERER: I see, because it will
10 reduce the competition that's using the clenbuterol.

11 MS. FULLERTON: Exactly, that was it.

12 MR. GASTON: I'm sorry. Anyway, thank you very
13 much.

14 CHAIRMAN STEEN: Thank you.

15 MS. ROUNTREE: Mr. Chairman, I have one more
16 comment, and I promise I'm through, but this is something
17 that I would like clarification from legal counsel and the
18 chairman of the Racing Commission.

19 You asked your legal counsel if the Racing
20 Commission could require a racetrack to run race days, so
21 I have to ask this question: if the Racing Commission
22 cannot require a Class 1 racetrack to run live race days,
23 what prevents this Class 1 racetracks from coming up here
24 and saying we're only going to request two days this year?

25 If the Racing Commission can't require Class 1

1 racetracks to run live race days, then what's to prevent
2 the racetrack from saying we've decided we're not going to
3 run any live race days, we're just going to be open for
4 simulcasting?

5 CHAIRMAN STEEN: So you think we should decide
6 their schedule?

7 MS. ROUNTREE: I think a Class 1 racetrack
8 should be required to run a race meet, a real live race
9 meet in order to maintain that license --

10 CHAIRMAN STEEN: They are.

11 MS. ROUNTREE: -- and to be able to be open
12 for simulcasting.

13 CHAIRMAN STEEN: That is true, they are
14 required to run to maintain their license and be open for
15 simulcasting.

16 MS. ROUNTREE: They're required to run but the
17 Commission can't tell them how many days they have to run
18 in order to maintain their license?

19 MS. BIJANSKY: There is no minimum number of
20 days in the rules.

21 MS. ROUNTREE: Thank you.

22 COMMISSIONER MACH: And to clarify, we're
23 talking about some dates that have already been allocated
24 and we're talking about some proposed days. So the
25 Commission can require the allocated dates to stay on the

1 schedule, it cannot force the tracks to take more dates
2 than they proposed taking if those dates haven't already
3 been allocated unless it puts them afoul of the meet and
4 simulcast rules.

5 Mr. Chairman, I would make a motion that we
6 stay firm on the allocated dates, separate those two
7 issues, the allocated dates from the proposed dates.

8 CHAIRMAN STEEN: Between the allocated and the
9 proposed, when are we talking about? The reduction days,
10 when are those proposed to be reduced? What's the timing
11 of that, I guess, is what I'm trying to figure out.

12 MS. BIJANSKY: You're asking when the first
13 date is that is on the schedule but the track no longer
14 wants that?

15 CHAIRMAN STEEN: So we have allocated dates for
16 '18 and some proposed dates for '19. Is that correct?

17 MR. SPEIGHT: There's only two tracks that have
18 allocated dates, Sam Houston Race Park, their thoroughbred
19 meet is allocated, and then Gillespie County Fair, their
20 dates are allocated. All the rest are proposed for 2018.

21 CHAIRMAN STEEN: So are any of the allocated
22 dates proposing to be reduced, or are these all just new
23 proposed?

24 MR. SPEIGHT: These are all just dates that are
25 now being requested.

1 COMMISSIONER MACH: So there isn't a request to
2 delete allocated days?

3 MS. ROUNTREE: (Speaking from audience.) Lone
4 Star Park has allocated 50 days, it's on the calendar of
5 the Texas Racing Commission.

6 MR. SPEIGHT: That's wrong if you got it off
7 the website. They're proposed.

8 MS. ROUNTREE: That's wrong if I got it off
9 your website?

10 MR. SPEIGHT: That's exactly right.

11 MS. ROUNTREE: Wow.

12 MR. SPEIGHT: I'm saying their request for
13 their proposed dates, they're all proposed dates for Lone
14 Star Park.

15 CHAIRMAN STEEN: So just to clarify, nobody is
16 seeking a reduction of already allocated dates.

17 MR. SPEIGHT: Not in the request by Ricky. The
18 only allocated dates for Sam Houston Race Park are the
19 thoroughbred and Gillespie, those are the only granted
20 dates.

21 COMMISSIONER MACH: So the dates that have been
22 requested or proposed by the various tracks --

23 MR. SPEIGHT: Are planned to be run.

24 COMMISSIONER MACH: -- all conform with the
25 minimum standards in order to have a license.

1 CHAIRMAN STEEN: Everything that's allocated --
2 I don't think we're getting -- I guess there's some
3 question here, but everything that's been allocated, the
4 tracks are proposing to run. What's in question here --
5 and tell me if I'm wrong -- these are all new proposed
6 dates, they're just less than they previously ran.

7 MR. SPEIGHT: You haven't voted on them prior
8 to, these are all fresh, new requests.

9 COMMISSIONER MACH: And if they meet that
10 schedule, they are meeting a minimum bar.

11 MR. SPEIGHT: There is no minimum bar.

12 COMMISSIONER MACH: Did you not say that there
13 was a certain number of days to meet and also for
14 simulcast?

15 MR. SPEIGHT: You just have to have an approved
16 live race date, even one, to be able to simulcast.

17 COMMISSIONER MACH: Okay. Got it.

18 CHAIRMAN STEEN: Do we need to clarify this?
19 It sounds like there's some --

20 COMMISSIONER EDERER: If what you're saying is
21 that there are no allocated race days except for
22 Gillespie?

23 MR. SPEIGHT: And Sam Houston Race Park, their
24 upcoming thoroughbred meet.

25 COMMISSIONER EDERER: And Sam Houston

1 thoroughbred meet. But no other allocated dates?

2 MR. SPEIGHT: No other allocated dates that you
3 all have voted on.

4 COMMISSIONER MACH: And they're not seeking a
5 reduction in the allocated dates?

6 MR. SPEIGHT: And Sam Houston, they're going to
7 run the meet dates that were allocated.

8 COMMISSIONER EDERER: That surprises me. I
9 thought the dates had been already allocated.

10 MS. FULLERTON: (Speaking from audience.) If
11 the Lone Star dates are not allocated, why are they on the
12 TxRC website as 2018 granted and amended horse race dates
13 as of September 19, 2017?

14 MR. SPEIGHT: We found that error a couple of
15 weeks ago and we just haven't updated the website.

16 MS. FULLERTON: (Speaking from audience.) Oh,
17 okay, because we just printed that yesterday.

18 MS. ROUNTREE: (Speaking from audience.) So
19 you're saying that in the very same racetrack -- live race
20 date request that Sam Houston requested their 2018
21 thoroughbred meet, Lone Star Park did not turn in a
22 request for these dates and they were not approved at the
23 very same meeting at the very same time that Sam Houston's
24 dates were approved.

25 MR. SPEIGHT: They were not.

1 MR. BERUBE: Can I make one other comment?

2 CHAIRMAN STEEN: Sure.

3 MR. BERUBE: Dwight Berube from Sam Houston
4 Race Park.

5 Sam Houston Race Park is in a little bit of a
6 unique situation compared to the other tracks only in the
7 sense that our quarter horse meet that we have requested
8 is only three months away and it's necessary for us to get
9 things in motion with the condition book and advertising
10 and promotions, et cetera, and we plead for a decision to
11 be made for a decision to be made on the Sam Houston dates
12 at this meeting today.

13 CHAIRMAN STEEN: So back to your motion,
14 Commissioner Mach, I think --

15 COMMISSIONER MACH: I withdraw that motion
16 because it's not applicable, and to my understanding from
17 the conversation that there were allocated dates that they
18 were looking to take back, and it's my understanding
19 that's not the case, that all allocated dates will be run,
20 and so what we're talking about are proposed dates to be
21 allocated.

22 And further, to my understanding, the
23 Commission can't require the tracks to do more than they
24 propose as long as they run one live race date. So all
25 we're talking about doing is either approving or not

1 approving the schedule as proposed. We don't have the
2 ability to say, no, you're not running enough days, run
3 more. We can ask that, we can recommend it, but we can't
4 require it.

5 And to that point, it does seem to be we're
6 heading in the wrong direction for the industry, for the
7 horsemen to have a reduction, but it's a business decision
8 that is in their hands and all we're asked to do is
9 approve their calendar, and to that point, I would
10 reluctantly make the motion to approve the proposed dates.

11 CHAIRMAN STEEN: Okay. So you're making a
12 motion to allocate race dates as shown in the calendars on
13 page 81 and 82 of the materials.

14 COMMISSIONER EDERER: We don't really have a
15 choice. We cannot require the tracks to race a certain
16 amount of days, and their request, all we can do is deny
17 it. If we deny it, they shut down, they don't run
18 anymore. Is that correct? If we deny these dates then
19 they can't run.

20 MS. BIJANSKY: They could bring another
21 proposal to the next meeting.

22 COMMISSIONER EDERER: Bring another proposal to
23 the next meeting, or they just shut down altogether. Is
24 that right?

25 Reluctantly, I agree we are in a position that

1 I don't think we have much of a choice here, and I don't
2 like that. It seems to me for it to be fair to the
3 industry, dates should be allocated long in advance of the
4 beginning of the year so that the horsemen can make their
5 plans and the tracks can make their plans.

6 We've been fortunate that we haven't run into
7 this situation before, but it seems to me that in the
8 future we need to start allocating dates much earlier than
9 we are now, here we are, it's a last-minute type of
10 situation. Am I correct?

11 MR. TROUT: That's correct. Normally we would
12 have done it back before August.

13 COMMISSIONER EDERER: I'm sorry?

14 MR. TROUT: Normally we would have done it back
15 before August.

16 MR. SPEIGHT: It was scheduled for July, but we
17 kept -- for whatever reason, the agenda just -- it kept
18 getting pushed off the agenda or other issues, so now
19 we're here.

20 COMMISSIONER EDERER: Well, I request that we
21 do everything in our power to see to it that this is done
22 in July rather than in December, in fairness to the
23 industry.

24 But I mean, now we're in a situation where I
25 feel for the horsemen very much so, but I'm afraid we're

1 in a position where we don't have a choice if we're going
2 to have racing in '18 and '19. Am I correct?

3 MR. TROUT: Yes, sir.

4 COMMISSIONER EDERER: Well, I'm afraid we've
5 wasted a lot of time, but hopefully we've cleared up some
6 situations for the future, because today it seems to me
7 that the point is really moot, we have no choice except to
8 support what the tracks are requesting.

9 COMMISSIONER MACH: Unless the horsemen think
10 we shouldn't approve any schedule, and I'm not hearing
11 that. Unless the horsemen think we shouldn't approve the
12 schedule.

13 MS. ROUNTREE: No, that's not what we think at
14 all, but I do think it's disingenuous to continue the
15 conversation saying that these race date requests are not
16 based on the anticipation of these increase in license
17 fees.

18 CHAIRMAN STEEN: I think that's what we've
19 heard today.

20 MS. ROUNTREE: We normally have race dates
21 allocated sometime in August, at the August meeting that's
22 normal and that's customary. Race dates were delayed,
23 requests were not made, these forms were not turned in,
24 these letters were not written to you by these racetracks
25 until that proposal and that rule amendment were on the

1 books and these race dates were handed in based on that.

2 Now, Retama Park, Steve is correct, when they
3 came to our office we discussed it. A portion of it was
4 because of the purse accounts at Retama Park, but we were
5 told multiple times in that meeting by the representatives
6 from Retama Park: Just look at the increase in our
7 license fees, we can't afford this.

8 So I agree, race dates need to be allocated,
9 the horsemen have to have the certainty of what those race
10 dates are going to be, but for the record, it is still an
11 inaccurate statement to say that these race dates were not
12 requested primarily based upon the anticipated increase in
13 license fees.

14 MR. ROSS: Can I just mention one thing? I'll
15 be very brief, and the staff can correct me if I'm wrong,
16 but we don't have any allocated dates for 2018. It's my
17 understanding in order to simulcast on January 1, you need
18 allocated dates, and then that would hold true for Lone
19 Star as well. So without allocated dates, without
20 simulcasting, that's a big problem.

21 MR. SPEIGHT: Valley Race Park is in the same
22 situation.

23 MR. ROSS: And Valley as well, but Houston and
24 Gillespie would be the only two tracks that would be
25 legally able to simulcast.

1 CHAIRMAN STEEN: A motion is on the floor.

2 COMMISSIONER EDERER: I'll second.

3 CHAIRMAN STEEN: Okay. Commissioner Ederer
4 seconded the motion by Commissioner Mach to allocate race
5 dates as shown in the calendars on pages 81 and 82 of the
6 materials. Do we have any further discussion?

7 (No response.)

8 CHAIRMAN STEEN: We'll take that up for a vote.
9 All in favor please signify by saying aye.

10 (A chorus of ayes.)

11 CHAIRMAN STEEN: Any opposed?

12 (No response.)

13 CHAIRMAN STEEN: That motion carries.

14 COMMISSIONER EDERER: I would like to say
15 something, reiterate what I've said earlier, that we did
16 this reluctantly, I think all of the commissioners feel
17 the same way, because of what it does to the horsemen.

18 But next year let's do everything we can
19 possibly do to have dates allocated at least by the first
20 day of August at the very latest. I think that's crucial.
21 Sorry.

22 CHAIRMAN STEEN: Thank you. Noted.

23 Okay. The next item is item VI.B. Allocation
24 of funds for Texas Bred Incentive Program under Commission
25 Rule 321.505(b).

1 Curley, will you present this item, please.

2 MR. TRAHAN: Good morning again, commissioners.

3 A portion for the money wagered on simulcast
4 races offered at horse racetracks is dedicated to the
5 accredited Texas Bred Incentive Program.

6 Commission Rule 321.505(b) requires the
7 Commission to determine the division of funds after
8 affording each official horse breed organization an
9 opportunity to present written information addressing the
10 criteria listed in paragraph 2 of this section.

11 Alternatively, the breed organizations may
12 present to the Commission an agreement in lieu of
13 providing written information. The agreement must meet
14 two specific requirements: first, the agreement must be
15 signed by all of the official breed organizations
16 designated in the Act that participate in the program;
17 secondly, the agreement must delineate the percentages by
18 which the Texas Bred Incentive Program funds generated
19 from simulcasting are to be divided among the various
20 breeds of horses.

21 You will find on pages 125 through 127 of your
22 meeting material a submitted agreement signed by all of
23 the participating breed registries in accordance with the
24 rules. The agreement lists the established percentages by
25 which the accredited Texas Bred Program funds will be

1 allocated among the various breeds of horses for calendar
2 year 2018.

3 This agreement maintains the same allocations
4 that were approved for current year 2017 and have been the
5 same since 2008. Since all parties have agreed to the
6 allocations and all requirements of the rule have been met,
7 staff recommends approval of the submitted accredited
8 Texas Bred Incentive Program breed split agreement for
9 calendar year 2018.

10 I'll be happy to answer any questions.

11 CHAIRMAN STEEN: Thank you, Curley.

12 Jean, do we have anyone signed up to speak on
13 this item?

14 MS. COOK: No, sir.

15 CHAIRMAN STEEN: Commissioners, any questions?

16 (No response.)

17 CHAIRMAN STEEN: In that case, I'll entertain a
18 motion to approve the allocation of funds of the Texas
19 Bred Incentive Program as proposed in the materials.

20 COMMISSIONER MARTIN: So moved.

21 COMMISSIONER MACH: Second.

22 CHAIRMAN STEEN: Motion made by Commissioner
23 Martin, seconded by Commissioner Mach. Any further
24 discussion?

25 (No response.)

1 CHAIRMAN STEEN: We'll take it up for a vote.
2 All in favor please signify by saying aye.

3 (A chorus of ayes.)

4 CHAIRMAN STEEN: Any opposed?

5 (No response.)

6 CHAIRMAN STEEN: That motion carries.

7 The next two items go together. VI.C. is
8 Allocation of purses as provided under Commission Rule
9 321.505(a) and VI.D. is Distribution of funds in their
10 escrowed purse accounts among the various breeds of horses
11 under Commission Rule 321.509.

12 Curley, will you be presenting these items as
13 well?

14 MR. TRAHAN: Yes, sir.

15 Commissioners, as with the Texas Bred Incentive
16 Program, a portion of the money wagered on simulcast races
17 in Texas is dedicated to purses at the horse tracks and to
18 the escrowed horse purse account from the greyhound
19 tracks.

20 Pursuant to Commission Rule 321.505(a), each
21 year the racetracks must negotiate with the
22 representatives of the officially recognized organizations
23 representing horse owners, trainers and/or breeders for
24 the allocation of purse funds earned at each track.

25 Racetrack management then recommends to the

1 Commission the specific allocation of simulcast purse
2 revenue among the various breeds of horses at their
3 respective racetracks.

4 The Commission may look to criteria detailed in
5 subsection 321.505(a)(4) when evaluating the racetracks'
6 recommendation, however, if the racetracks and all of the
7 official horse industry organizations reach a signed
8 agreement, that agreement may then be presented to the
9 Commission for approval.

10 The distribution of funds collected in the
11 escrowed horse purse account is covered in Commission Rule
12 321.509. The funds set aside for the escrowed horse purse
13 account are derived from simulcast wagering on interstate
14 horse racing at greyhound tracks.

15 The rule requires that at least once a year the
16 Commission shall distribute all funds accrued in the
17 escrowed purse account to the horse racetracks. The
18 racetrack associations are required to recommend the
19 percentages by which the distribution of funds will be
20 divided among the various breeds of horses.

21 The Commission must first determine the
22 allocation among the racetracks of the escrowed funds, and
23 secondly, the percentages to be divided among the breeds
24 at each track for their allocated portion. The Commission
25 may look to the criteria listed in subsection (c) of this

1 section when evaluating the racetrack association
2 recommendations.

3 In lieu of this process, if the racetrack
4 association and the official horse industry organizations
5 reach an agreement, they may substitute or submit that
6 signed agreement to the Commission for approval as long as
7 the agreement meets two criteria: first, the agreement
8 must delineate the percentages by which the escrowed purse
9 account revenue received by the association will be
10 divided amongst the various breeds of horses; secondly,
11 the agreement must be signed by all organizations
12 recognized by the Commission or in the Act as
13 representatives of horse owners, trainers and/or breeders.

14 Commissioners, on pages 128 through 146 of your
15 meeting materials are the racetrack recommended
16 allocations of the simulcast purse funds, as well as the
17 recommended distribution of the escrowed purse funds.

18 Also included on pages 147 through 155 are the
19 letters of support for each of the breed registries and
20 the Texas Horsemen's Partnership for the racetracks
21 submitted breed split allocations.

22 All racetracks have recommended maintaining the
23 status quo for calendar year 2018 for both sets of purse
24 funds. Since we have received letters of support from all
25 of the various horse industry organizations and having met

1 the requirements of the rule, staff would recommend
2 approval of the allocation of simulcast purses and the
3 distribution of funds from the escrowed purse account as
4 proposed to the Commission by the racetracks.

5 If you have any questions, I'll be happy to
6 answer.

7 CHAIRMAN STEEN: Thank you, Curley.

8 Jean, do we have anyone signed up to speak on
9 these items?

10 MS. COOK: No, sir.

11 CHAIRMAN STEEN: Any discussion?

12 (No response.)

13 CHAIRMAN STEEN: In that case, I'll entertain a
14 motion to approve the allocation of purses and
15 distribution of escrowed purse funds as described in the
16 materials.

17 COMMISSIONER KLEINSCHMIDT: So moved.

18 CHAIRMAN STEEN: Motion made by Commissioner
19 Kleinschmidt. Seconded by?

20 COMMISSIONER MACH: Second.

21 CHAIRMAN STEEN: Commissioner Mach.

22 Any further discussion?

23 (No response.)

24 CHAIRMAN STEEN: We'll take this up for a vote.

25 All in favor please signify by saying aye.

1 (A chorus of ayes.)

2 CHAIRMAN STEEN: Any opposed?

3 (No response.)

4 CHAIRMAN STEEN: That motion carries.

5 I'd like to do a ten-minute recess if your
6 schedule allows, Commissioner Mach. We'll reconvene here.
7 The time is now 12:02, we'll reconvene at 12:12. Is that
8 satisfactory? Thank you.

9 (Whereupon, at 12:02 p.m., a brief recess was
10 taken.)

11 CHAIRMAN STEEN: The time is now 12:15, we'll
12 reconvene the meeting.

13 The next item is VI.E., Allocation of live race
14 dates for greyhound tracks for the period from January 1,
15 2018 to August 31, 2019.

16 Ricky Walker, will you please present this
17 item.

18 MR. WALKER: Good morning again, commissioners.

19 On page 156 is the race date calendar for 2018
20 showing Gulf Greyhound Park's previously granted race
21 dates from January 3, 2018 through February 24, 2018.
22 Gulf Coast Racing has five dates previously granted in
23 August 2018 but has requested to move them to December to
24 coincide with their planned 2018-2019 winter meet.

25 Gulf Coast requests four dates starting on

1 December 26, 2018 and 32 dates beginning on January 2,
2 2019 and ending on February 23, 2019. Valley Race Park
3 has requested five race dates from August 23 through
4 August 31, 2019.

5 If you have any questions, I'll be glad to
6 answer them.

7 CHAIRMAN STEEN: Any questions, commissioners?
8 (No response.)

9 CHAIRMAN STEEN: Do we have people signed up to
10 speak? Okay. We have Laird Morgan, representing the
11 Texas Greyhound Association, wishes to testify against.

12 MR. MORGAN: Mr. Commissioner, members of the
13 Commission. I'm Laird Morgan and I'm one of the lawyers
14 that represents the Texas Greyhound Association. I'm also
15 a member of the association, and I'm also a licensed
16 animal owner. I'd like to consolidate the issues and
17 discuss the race dates, the cross-species allocation, and
18 just a moment on the rules that have been reviewed.

19 The TGA is disappointed and frustrated by the
20 actions of Gulf and the response of the Commission, as the
21 TGA has sought to keep in force the April 2016 agreement
22 which the Commission endorsed and even made rule changes
23 to embrace the new format of boutique racing.

24 The shortly planned start of Gulf is not
25 consistent with that agreement nor are the future race

1 dates requested. The TGA finds that Gulf has taken a
2 provision in the agreement for the reduction in racing
3 from year-round programs to 35 programs as set out in the
4 agreement and discarded the balance of the agreement.
5 Specifically providing race opportunity for the 1,200
6 eligible Texas bred pups that the TGA wants to place in
7 racing has been ignored to bring in greyhounds from around
8 the country.

9 We sought to negotiate the number of greyhounds
10 to be raced, along with providing Texas breeders with
11 kennel commitments and participation by the TGA in track
12 safety to try and bring Gulf up to the successful
13 standards we had in the recently-run series at Valley.

14 We went to meet and discuss these matters in
15 Houston on September 27, 2017. On behalf of Gulf, Eric
16 Wilson responded to our request that the 270 greyhounds
17 required for this boutique meet be Texas bred by telling
18 us that Gulf would comply with the rules of racing
19 requiring 5 percent of the hounds in the compound to be
20 Texas bred. That would be 14 greyhounds out of 270 would
21 be Texas bred.

22 There was no specific commitment to a track
23 safety program. Gulf has previously rejected the TGA
24 injured athletes program which was in effect at Valley
25 this past season and Valley had a remarkably safe series

1 of racing, which Gulf has taken pride and announced to us
2 that they have a 1 percent injury rate and Valley there
3 were just four serious incidences, one of which was
4 immediately after race, one in schooling, and two during
5 racing out of 4,400 opportunities; a remarkably low
6 percentage and a very safe race, and it was a series where
7 the TGA people were there every day to discuss the track's
8 safety, and the TGA injured athletes program was in effect
9 at Valley.

10 And we've tried to get the track association to
11 share with us in the underwriting to make sure that any
12 greyhound suffering a career-ending injury would have
13 treatment, rehabilitation and transportation to an
14 approved adoption group and we did it for the greyhounds
15 that were affected at Valley, but the TGA paid all those
16 bills, none of the track associations participated in that
17 program.

18 The Texas greyhound breeders and owners,
19 they're the last sharecroppers. They have very little
20 control and they're very vulnerable to the decisions made
21 here and how the tracks are orchestrated because of the
22 control of the kennel contracts, and what Gulf is doing
23 with their current plans. They're supporting out-of-state
24 breeders, operators, kennel people, and the vast majority
25 of the purse money in their planned racing is going to

1 leave Texas and not come back.

2 And what we had in Valley was a very successful
3 situation where we had all Texas bred, and 31 percent of
4 the checks for the Texas bred did go out of state; they're
5 the people that bought the Texas bred greyhounds, it
6 wasn't just for the Texas economy, but it encouraged the
7 breeders to keep going and keep doing what they have been
8 doing.

9 And we had a commitment in 2016 that has been
10 disregarded now, and in the proposed race dates you see,
11 it is not the 35 days, it's not featuring the Texas
12 kennels and breeders and the Texas bred pups and it
13 doesn't have a role for the TGA in track safety and
14 maintenance. And we would also want to see the injured
15 athletes program be an integral part of racing.

16 When we look at this, when you have a Texas
17 breeder with his dogs in the kennel compound, you have
18 absolute commitment to the welfare of those dogs and
19 taking great care and engaging in what's happening.

20 When you have people with a kennel contract who
21 don't own the dogs, well, if they protest about the safety
22 or the condition of the tracks, they could lose the kennel
23 contract, which is a basically somewhat guaranteed
24 opportunity, and they're not going to rise to the event;
25 they're not going to step up and say, hey, this is a

1 problem, this is dangerous. And when the TGA is excluded
2 from the process, there is no one engaged and the plans
3 going ahead are all directed to that.

4 And the TGA, we object to any race allocation
5 which doesn't have a contemporaneous agreement on
6 simulcast and a format for the race programs, and none of
7 the race dates proposed to you have that.

8 And we also believe that the cross-species
9 allocation should be the same, subject to the same type of
10 negotiations. And when we have, even right now there are
11 dates coming up at Gulf in December, and which I'm
12 assuming would have payment -- first payment from cross-
13 species, and we have an email from Mr. Trahan that there's
14 been no allocation of cross-species to Gulf for this year,
15 and who knows.

16 And then we have a request from Corpus Christi,
17 which as I understand it doesn't have a track, and one of
18 the conditions for requesting race dates is the status of
19 the track and the facilities in general. They've been --
20 for years we've looked the other way as they've been an
21 off-track betting operation.

22 And when we have -- the same thing with the
23 Commission did step up after the April 2016 agreement and
24 they even changed -- y'all changed the rules for Texas
25 bred payout to encourage the Texas bred and pay one

1 through four for those puppies that were racing there and
2 changed Rule 303.102 -- which is one of those rules that
3 are being affirmed now -- and the result of that is that
4 planned racing at Gulf, if just one Texas bred is entered
5 in the race and finishes last, then half of the Texas bred
6 money would go to a last place dog and the rest would be
7 carried over into some future time.

8 And so this rule doesn't make sense, and I
9 think there's a good reason that we, the Texas Greyhound
10 Association, and the Commission in setting this rule, no
11 one anticipated that someone would try to go back and run
12 in a format that when you had 250-plus days of racing a
13 year and try to do it on a 35-day program, it doesn't make
14 sense and it's going to result in a nonsensical payout.

15 And part of this was with the request for
16 racing dates, when I look at the forms that are generated,
17 basically we have the same procedures for horses and dogs
18 and the Act is different.

19 The Act talks about negotiation between the
20 track associations and the Texas Greyhound Association,
21 named specifically in the Act, and if no agreement is
22 reached, it's supposed to go to arbitration. Further, the
23 rules of racing require that all the elements of greyhound
24 racing be negotiated between the TGA and the track
25 associations, and yet the format and how this is presented

1 is the same for the horses where the tracks are presenting
2 their dates, there's an argument back, and the Commission
3 holds the final say.

4 In our world, in the greyhound world with a
5 simulcast, we're supposed to go to arbitration, and we
6 have at one point when Mr. Trout replied to inquiry from
7 Gulf and he was saying that there is no authority for the
8 Texas Greyhound Association to be playing that role in
9 simulcast, and that is our role, that role is in the Act,
10 and for us to consider any different is something that we
11 can't do.

12 And part of this drifting from the Act, and I
13 believe that the protection from the Act was from
14 instances of the track and greyhound owner and breeder
15 disagreement in Florida in the '70s and this protection
16 was put in to provide real negotiation and resolution by
17 arbitrators if there was a dispute.

18 And Mr. Trout, his statement was: However, it
19 should be also noted that neither the Act nor the rules
20 require the approval of the Greyhound Breed Registry in
21 order to grant simulcast approval to a racing association.

22 And I think that just ignores the steps that are set
23 forth in the Act.

24 And to speak on behalf of the Texas Greyhound
25 Association, we're not willing to accept being witness to

1 this decline in greyhound racing, to seeing money leave
2 the state, to seeing diminished opportunity and
3 discouragement of breeders, and our breeders perhaps
4 losing everything for the convenience of Gulf and for
5 reasons that are at times hard to fathom.

6 The Texas Greyhound Association has filed an
7 intervention and a lawsuit between the five track
8 associations against the Commission, and we want to hold
9 Gulf to their obligations and what they've agreed to and
10 what the rules and the Act are now.

11 And I truly regret the amount of interchange of
12 intimidation, bullying, name-calling, and I'd like to have
13 this be a situation where we could talk and resolve this
14 and build the sport. My obligation and my responsibility
15 and my passion is to see that the Texas breeders have an
16 opportunity in the future, and that's why I'm here to
17 fight for them. And I thank you for your time.

18 CHAIRMAN STEEN: Thank you.

19 As far as item E goes, it looks like it's an
20 allocation of Gulf Coast racing dates and Valley Race Park
21 racing dates. What is it that you oppose?

22 MR. MORGAN: We oppose them not adhering to the
23 April 2016 agreement of running the 35 days of Texas bred
24 and involving --

25 CHAIRMAN STEEN: How many days are they

1 running?

2 MR. MORGAN: How many is Valley?

3 CHAIRMAN STEEN: So you're in opposition of
4 Gulf Coast Racing's proposal?

5 MR. MORGAN: Right.

6 CHAIRMAN STEEN: And the reason is that they're
7 not running 36 days.

8 MR. MORGAN: And they're not -- we have no
9 indication that they're following the rest of that
10 agreement that was presented in April of 2016 to the
11 Commission involving the Texas kenneling, and that they
12 haven't come to us to work this out before putting the
13 dates before you.

14 It's supposed to be a negotiated process
15 between the tracks and the TGA, and they just skipped over
16 that and came to you, and it's left out track safety, it's
17 left out care for the greyhounds, it's left out how we're
18 going to arrange the kennel structure. We would actually
19 want to move away from the kennel structure the way it is.

20 CHAIRMAN STEEN: So you're just saying you
21 don't want them to get dates granted.

22 MR. MORGAN: Right.

23 CHAIRMAN STEEN: And how many days, staff, is
24 Gulf Coast requesting to run?

25 MR. WALKER: Thirty-six.

1 COMMISSIONER MACH: And are we out of time if
2 we don't approve these dates?

3 MR. SPEIGHT: For Valley Race Park they
4 wouldn't be able to simulcast if their race dates aren't
5 approved.

6 CHAIRMAN STEEN: Any more questions?

7 (No response.)

8 CHAIRMAN STEEN: Then I'd like to ask Sally
9 Briggs to come forward, who would like to testify
10 representing, I guess, in this case, represents both Gulf
11 Greyhound and Gulf Coast.

12 MS. BRIGGS: Good morning. Sally Briggs, Gulf
13 Greyhound Park and Gulf Coast Racing. I guess it's good
14 afternoon now.

15 We did agree in the meeting that was held in
16 January of 2016, that we agreed with the Texas Greyhound
17 Association that we would run 36 race days, and that's
18 what we have applied for at Gulf Coast Racing and what we
19 are running at Gulf Greyhound Park.

20 CHAIRMAN STEEN: Any questions?

21 (No response.)

22 MS. BRIGGS: Thank you.

23 CHAIRMAN STEEN: Anyone else signed up to
24 speak? Jean, Jean, anyone else signed up to speak?

25 MS. COOK: No, sir.

1 MR. BERUBE: I'll speak on Valley Race Park.

2 CHAIRMAN STEEN: Please come forward and state
3 your name.

4 MR. BERUBE: Dwight Berube, representing Valley
5 Race Park.

6 We have applied for five dates in 2019 simply
7 because that was the end of the application period. To be
8 consistent with the industry agreement, we would have a
9 36-day meet December through February of 2019 into 2020,
10 so this was merely a placeholder, so to speak, and next
11 year at this time we would amend those dates to turn into
12 the 36-day meeting, and this is exactly what they did at
13 Gulf Coast Racing too.

14 CHAIRMAN STEEN: Sure. Thank you.

15 Do we have somebody else?

16 MR. DALTON: Mr. Chairman, commissioners. My
17 name is John Dalton. I'm a greyhound breeder from this
18 area, we have about 180 dogs on our farm, we employ three
19 people. I have been a member of the TGA for nearly 20
20 years, served on the board as the director and also as
21 vice-president up until July of this year.

22 I have always tried to be a friend to the TGA.
23 Sometimes being a friend means speaking up when you see
24 your friend is on the wrong path, not sitting in silence
25 as they go over the cliff.

1 In my opinion, our organization is on that
2 wrong path. The level of protectionism that they are
3 trying to enforce is both foolish and shortsighted. We
4 cannot keep everything to ourselves in a short meet and
5 then expect to go out to other states and other tracks and
6 be welcomed with open arms.

7 Through the years the TGA has never gotten
8 involved with dictating kennel contracts at the tracks.
9 Our leadership then knew that it would be impossible to
10 avoid conflicts of interest in this area which would
11 severely weaken our organization, and this is the issue
12 that is at the core of many of the problems that we have
13 right here in front of you today.

14 I would ask the Commission to support the Gulf
15 Race meet and the funding of the purses in its entirety,
16 and to counsel the leadership of our organization to find
17 a better path. If you have any questions.

18 CHAIRMAN STEEN: Thank you. Any questions?

19 (No response.)

20 CHAIRMAN STEEN: Thank you.

21 Ms. Briggs, would you mind stepping back up? I
22 had a question for you.

23 So as far as the item under consideration is
24 Gulf Coast Racing, the meet, this would be not this year
25 but the following year.

1 MS. BRIGGS: It would be in December of 2018, I
2 believe we have requested four days, and then the other 32
3 days in January and February of 2019.

4 CHAIRMAN STEEN: All right. What do we plan to
5 do as far as what has been done, what is planned as far as
6 talking and discussing with the TGA as far as how this
7 meet would be handled?

8 MS. BRIGGS: For Gulf Coast Racing?

9 CHAIRMAN STEEN: Yes.

10 MS. BRIGGS: To be very frank with you, right
11 now we're getting everything ready, we've been working for
12 about two or three months to try to get ready for Gulf
13 Greyhound Park's live race dates, been very busy with
14 that.

15 CHAIRMAN STEEN: Sure.

16 MS. BRIGGS: As soon as we get that all done,
17 then we will move into helping Gulf Coast Racing see what
18 we need to do to get ready for their meet.

19 CHAIRMAN STEEN: Okay. And so what, what -- in
20 that regard, what can you say -- I know you're not there
21 yet but what would be the planned procedure or sort of
22 discussion with TGA?

23 MS. BRIGGS: We would go and have to evaluate
24 everything there, and as far as meeting with the TGA, we
25 are happy to meet with the TGA. We did host a meeting

1 September 27 in Houston, of which Mr. Ederer and Ms.
2 Hicks -- we asked them both to attend to represent you
3 all, and they did.

4 And we did have kennel applications there for
5 the Gulf meet on the table, we also announced that we had
6 kennel applications on our website, anyone was welcome to
7 apply.

8 Not one of the TGA board members applied for a
9 booking at Gulf Greyhound Park. We do have six kennels,
10 we did have two Texas breeders -- who are very good
11 breeders and have great farms -- apply but they decided
12 since to pull out. We feel like we do have six great
13 kennels and are going to have a great product to offer.

14 We -- I was concerned because I had heard that
15 Mr. Peck was concerned around the first of December about
16 not talking with us about anything. Since he has not
17 reached out to us, on December 11, I did call Mr. Peck and
18 I got his voicemail and I left a message, and I have not
19 heard from him, he has not returned my call. We'd be
20 happy to talk to them, all they have to do is call us.

21 CHAIRMAN STEEN: Okay. And at this time I'm
22 just talking about -- I know we're going to address the
23 next item that's going to be on the meet --

24 MS. BRIGGS: Right, yes, sir.

25 CHAIRMAN STEEN: -- coming up here shortly,

1 and that's a whole different set of issues, but I'd just
2 like from your standpoint and from the TGA standpoint an
3 agreement that we're going to try to work through this
4 next meet, take it a little bit farther in advance, so we
5 don't get down to the wire like we are here.

6 MS. BRIGGS: The Gulf Coast meet.

7 CHAIRMAN STEEN: The Gulf Coast meet.

8 MS. BRIGGS: Yes, sir, absolutely.

9 Anything else, any questions?

10 CHAIRMAN STEEN: Any other questions?

11 (No response.)

12 MS. BRIGGS: Thank you.

13 CHAIRMAN STEEN: Anybody else signed up on this
14 item?

15 MS. COOK: No, sir.

16 CHAIRMAN STEEN: Any further discussion?

17 COMMISSIONER EDERER: No. I'll make a motion.

18 CHAIRMAN STEEN: Okay.

19 COMMISSIONER EDERER: I'd make a motion that
20 the allocation for live race dates be granted as
21 requested.

22 COMMISSIONER MACH: I second the motion.

23 CHAIRMAN STEEN: A motion has been made by
24 Commissioner Ederer and seconded by Commissioner Mach to
25 approve the race dates as shown on the calendars on page

1 156 and 157 of the materials. Any further discussion?

2 (No response.)

3 CHAIRMAN STEEN: We'll take this up for a vote.

4 All in favor please signify by saying aye.

5 (A chorus of ayes.)

6 CHAIRMAN STEEN: Any opposed?

7 (No response.)

8 CHAIRMAN STEEN: That motion carries.

9 The next item is VI.F., Allocation of
10 interstate cross-species purse money under Commission Rule
11 303.102(d).

12 Curley, would you please present this item.

13 MR. TRAHAN: Commissioners, the act requires
14 horse racetracks to pay a purse in the amount of 5.5
15 percent of interstate cross-species handle to the TGA for
16 use at greyhound racetracks in Texas.

17 The TGA prepares a proposed allocation for
18 consideration by the Commission. Under Section 303.102 of
19 the rules, the Texas Greyhound Association must pay to the
20 greyhound racetracks the purse money it collects pursuant
21 to the Act from Texas horse racetracks in accordance with
22 an allocation approved by the Commission.

23 On pages 173 and 174 of your meeting materials
24 is a letter from staff requesting the information from the
25 TGA and TGA's subsequent proposed allocation. The TGA is

1 proposing all escrowed interstate cross-species simulcast
2 funds collected for the period of January 1, 2018 through
3 December 31, 2018, after allowable expenses, be allocated
4 to Gulf Coast Racing for their live racing meet, which is
5 slated to begin December 26, 2018.

6 In this same letter, the TGA is proposing to
7 not pay out a distribution of funds earned beginning
8 February 5, 2017 through December 31, 2017. The funds
9 earned during this period remain unallocated by the
10 Commission.

11 However, on pages 175 through 178 is the TGA's
12 outline of the three-year plan presented to the Commission
13 at the April 12, 2016 meeting detailing the allocation of
14 all purse funds as agreed to by the TGA and the three
15 greyhound racetracks.

16 Based on race dates allocated by the
17 Commission, staff recommends that the cross-species funds
18 received and held by the TGA, less allowable
19 administrative expenses, be allocated as follows:
20 February 5, 2017 through February 24, 2018 to Gulf
21 Greyhound Park, and February 25, 2018 through February 23,
22 2019 to Gulf Coast Racing.

23 If you have any questions, I'd be happy to
24 answer.

25 CHAIRMAN STEEN: So staff's recommendation is

1 based on the agreement that was reached and then I guess
2 within the industry stakeholders, the tracks and the TGA,
3 and then subsequently the Commission allocated race dates
4 according to that agreement.

5 MR. TRAHAN: Yes, sir, that's correct.

6 CHAIRMAN STEEN: Is that the basis of the staff
7 recommendation?

8 MR. TRAHAN: Yes, sir, it is.

9 CHAIRMAN STEEN: Do we have anyone signed up to
10 speak?

11 MR. MORGAN: If I could follow up on that
12 point?

13 CHAIRMAN STEEN: Sure.

14 Thank you, Curley.

15 MR. MORGAN: Again, Laird Morgan for the Texas
16 Greyhound Association.

17 The industry agreement from April 2016 was not
18 just for 35 race dates, it was for protecting and
19 encouraging Texas breeding, engaging the TGA in track
20 safety, enhancing track programs, and focusing on saving
21 the Texas breeder and going from year-round racing to 35
22 days of racing.

23 And what I hear here is that we're going to
24 pick this one part, the 35 days and no matter what else we
25 do, we get that, and we're saying, no, this was an overall

1 agreement, rules were changed by this Commission to
2 accommodate that agreement, and the track associations are
3 not complying with the agreement they drafted. That's our
4 objection.

5 CHAIRMAN STEEN: What specifically are you
6 saying they're not complying with?

7 MR. MORGAN: The focus on bringing in Texas
8 breeders into the kennels and discussing and negotiating
9 that arrangement, and in turn, that puts in Texas bred
10 into the kennels here.

11 And again, when you have racing opportunity
12 before when you have thousands of hounds, but here when
13 you're down to 270 hounds, you've got to do something to
14 protect your Texas breeders so that they have a chance to
15 stay in business.

16 And that's why the only reason the TGA went
17 along with this agreement was because it was going to
18 focus on Texas breeders, it was going to put Texas
19 breeders in the kennel; it was going to put Texas pups in
20 the kennel, and the TGA finally would have a role in track
21 safety and the track programs and we created the injured
22 athletes program to make sure that if a greyhound was hurt
23 that it would be taken care of properly.

24 And now all of that's gone and all they're
25 saying is we want the money, we've got 35 days, and we can

1 throw out the rest of the agreement, and that's just not
2 acceptable to us.

3 Thank you.

4 CHAIRMAN STEEN: Thank you.

5 I'll comment personally on this subject because
6 I have been involved in it, and I think both sides are at
7 fault here for not coming to -- I know there have been
8 discussions, but we've gotten kind of late in the game
9 here with the meets starting up -- I've attempted to get
10 the TGA and Gulf together several times.

11 I know that some decisions were made by Gulf
12 before the TGA would like those decisions to be made.
13 Multiple times I attempted to get the TGA to get together
14 with Gulf, Gulf expressed a willingness to work with them
15 on the various items discussed there, and I wasn't
16 successful in getting the TGA to come back to the table to
17 try to work through some of the issues, albeit late in the
18 game. But that's personally where I've been on that
19 subject.

20 Sally, do you have something you'd like to say?

21 MS. BRIGGS: Yes, sir. I know we've been here
22 a long time, but I would like to make you all aware of a
23 couple of points.

24 As far as our injury rate at Gulf, please keep
25 in mind that we ran -- we had over 23,000 starts in 2015

1 with less than 1 percent injuries, which is being compared
2 to 36 performances at the Valley, so that's quite a bit of
3 difference.

4 The other thing I want to point out to you is
5 that we did require, we are requiring, and it is in our
6 booking agreement with the kennels that we have contracted
7 with, they are required to have 40 percent Texas bred
8 greyhounds in their kennels, and that will be enforced, it
9 is enforced by the judges at our track and we will make
10 sure also that that is enforced.

11 CHAIRMAN STEEN: And what does that enforcement
12 entail?

13 MS. BRIGGS: I believe that in the past --
14 because I did talk to Mr. Pelletier about this right after
15 we sent our contracts out, if you do not keep 40 percent
16 Texas bred in your kennel, it reduces the number of starts
17 that you're able to have for your dogs. So in other
18 words, if you've got dogs that aren't Texas bred, then it
19 reduces the number of times that those dogs can run until
20 you get back up to your 40 percent Texas bred.

21 CHAIRMAN STEEN: That's the active dogs?

22 MS. BRIGGS: Yes, sir.

23 CHAIRMAN STEEN: And what have you done as far
24 as safety goes and ongoing?

25 MS. BRIGGS: We have completely -- we took the

1 top about 2-1/2 or 3 inches of dirt or sand off of our
2 track and we have contracted with a firm in Houston that
3 also does Sam Houston racetrack, and we have, I think,
4 about -- Joe, am I right? -- about 240-plus tons of sand
5 that we have brought in and redone the surface.

6 There's a couple of people here that have been
7 on our track that have really complimented it. We ran
8 over 200 dogs in unofficial schooling this past weekend
9 and the track surface, they all say it's one of the best
10 they've ever seen.

11 And of course, we do have our vet back, as well
12 as Dr. Chip, the state vet, and so we are very much aware.
13 Our main goal is to have a safe environment for the
14 greyhounds to run.

15 CHAIRMAN STEEN: And I guess a question for
16 staff, what have we done in regards or what will we be
17 doing in regards to monitoring safety at the meet?

18 MR. TROUT: Our judges inspect the track every
19 day before they run. If they start having injury
20 problems, our judges will stop racing and make them make
21 whatever adjustments. And this isn't anything new, this
22 is something we've always done.

23 MS. BRIGGS: Right, yes.

24 CHAIRMAN STEEN: Any other questions?

25 COMMISSIONER EDERER: No.

1 MS. BRIGGS: Thank you.

2 CHAIRMAN STEEN: Thank you.

3 Further discussion on this item?

4 COMMISSIONER EDERER: No. I support what
5 you've said and the comments that you said earlier, and I
6 believe that the allocation should be made as set out
7 herein. I think that it will be supported by the
8 industry.

9 I believe that from what I have experienced,
10 and I was at a meeting in September, I believe that the
11 TGA seems, in my opinion, to be out of line with the
12 industry, and I believe that the allocation -- it's very
13 necessary that this allocation be made.

14 If the allocation is not made, then there will
15 be no greyhound racing and it will have an domino effect
16 on all of racing because of the simulcast effects and this
17 type of thing. So I certainly believe that it's important
18 that the allocation be made.

19 COMMISSIONER MACH: Mr. Chairman, I would move
20 that the allocation as recommended be made.

21 COMMISSIONER EDERER: And I second.

22 CHAIRMAN STEEN: Motion made by Commissioner
23 Mach, seconded by Commissioner Ederer for the allocation
24 of the cross-species purse money.

25 MS. BIJANSKY: Let me clarify.

1 COMMISSIONER MACH: To approve as recommended
2 by staff.

3 MS. BIJANSKY: As recommended by staff. Thank
4 you.

5 CHAIRMAN STEEN: Any further discussion?
6 (No response.)

7 CHAIRMAN STEEN: We'll take this up for a vote.
8 All in favor please signify by saying aye.

9 (A chorus of ayes.)

10 CHAIRMAN STEEN: Any opposed?

11 (No response.)

12 CHAIRMAN STEEN: Motion carries.

13 We are not going to have an executive session
14 at this meeting.

15 As far as scheduling the next Commission
16 meeting, we need to -- given our small number, that we
17 have to get a quorum, we need to work on finding a date
18 that works for everyone, we'll try to do that as soon as
19 possible.

20 The time is now 12:51. With all business
21 concluded, we are now adjourned. Thank you.

22 (Whereupon, at 12:51 p.m., the meeting was
23 adjourned.)

24
25 I certify that the foregoing is a correct
26 transcript from the electronic sound recording of the

1 proceedings in the above-entitled matter.
2
3

4 /s/ Nancy H. King
5 Certified Electronic Reporter
6 AAERT No. CET-153
7

01/02/2018
Date