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BEFORE THE  
TEXAS RACING COMMISSION  
AUSTIN, TEXAS

COMMISSION MEETING  
FEBRUARY 7, 2008

Reported by: SHERRI SANTMAN FISHER  
Job #9-67213

1           BE IT REMEMBERED that the above entitled matter  
2           came on for hearing on the 7th day of February, 2008,  
3           beginning at 10:32 A.M. at 105 West 15th Street, Room  
4           120, Austin, Travis County, Texas, and the following  
5           proceedings were reported by SHERRI SANTMAN FISHER,  
6           Certified Shorthand Reporter for the State of Texas.

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APPEARANCES

- Commissioners:       JESSE R. ADAMS
- G. KENT CARTER
- CHARLES L. "SONNY" SOWELL
- RONALD F. EDERER
- ROLANDO PABLOS
- ROBERT SCHMIDT
- GLORIA HICKS
- ERNEST ANGELO, JR.
- JIMMY ARCHER

1                   CHAIRMAN ADAMS: Good morning, everyone.  
2           It's February the 7th, 2008, approximately 10:30, and  
3           I'd like to call this meeting to order and recognize  
4           Ms. Giberson who will call the roll.

5                   MS. GIBERSON: Ernest Angelo?

6                   MR. ANGELO: Here.

7                   MS. GIBERSON: Jimmy Archer?

8                   MR. ARCHER: Here.

9                   MS. GIBERSON: Ron Ederer?

10                  COMMISSIONER EDERER: Here.

11                  MS. GIBERSON: Gloria Hicks?

12                  COMMISSIONER HICKS: Here.

13                  MS. GIBERSON: Rolando Pablos?

14                  COMMISSIONER PABLOS: Here.

15                  MS. GIBERSON: Robert Schmidt?

16                  COMMISSIONER SCHMIDT: Here.

17                  MS. GIBERSON: Sonny Sowell?

18                  COMMISSIONER SOWELL: Here.

19                  MS. GIBERSON: Kent Carter?

20                  VICE-CHAIRMAN CARTER: Here.

21                  MS. GIBERSON: Chairman Adams?

22                  CHAIRMAN ADAMS: Here.

23                         We do have a quorum present. As a matter  
24           of fact, I think, if I'm not correct, this may be a  
25           very rare instance where we have a full Commission this

1 morning.

2 So could I next ask Ms. Giberson and  
3 Mr. Fenner if anyone has signed to speak in the public  
4 comment portion of the agenda.

5 MR. FENNER: No, sir, no one has.

6 MS. GIBERSON: No.

7 CHAIRMAN ADAMS: Okay. Thank you very  
8 much.

9 The next item of business is general  
10 business, discussion and consideration and possible  
11 action on the followings matters: Budget and finance.  
12 Our chief financial officer, Ms. Shelley  
13 Harris-Curtsinger, please.

14 MS. HARRIS-CURTSINGER: Good morning,  
15 Commission. We are now 33.33 percent through the  
16 current 2008 fiscal year. As you will see in the  
17 handout provided in your packet, the agency is under  
18 budget by 5.73 percent at this time. This is normal  
19 for the agency as most of the live racing and  
20 expenditures occur in the latter part of the fiscal  
21 year.

22 We are planning and gearing up for the  
23 next strategic planning process and legislative  
24 appropriations request. The agency has been assigned a  
25 new LBB analyst for the upcoming legislative cycle.

1 Her name is Christy Havel. And I had asked her if she  
2 would be here but I never heard back from her so I  
3 don't think she's here today. I haven't seen her come  
4 in.

5 We will be meeting with the LBB on  
6 February 21st for the agency briefing to get them  
7 started rolling for the next legislative session.

8 CHAIRMAN ADAMS: Are there any questions  
9 of our staff on this item?

10 Hearing none, I'll move on to the next  
11 item which is a report on racetrack inspections. Our  
12 compliance auditor, Carol Olewin.

13 MS. OLEWIN: Good morning,  
14 Commissioners. I'm Carol Olewin, compliance audit  
15 administrator. This is the report on racetrack  
16 inspection activities.

17 The first item, Manor had an  
18 administrative inspection before. Unsatisfactory  
19 items, three of those have been corrected since this  
20 report was printed.

21 The Corpus Christi veterinarian  
22 inspections have been resolved; and the Corpus Christi  
23 admin, four of the items have been resolved and one is  
24 remaining outstanding.

25 Below that are the 15 new inspections

1 that have been done since the last report or since our  
2 last meeting.

3 CHAIRMAN ADAMS: Any questions?

4 I do have a question. On the Corpus  
5 Christi issue, are the actual cleanup items and so  
6 forth included in your report, those other items that  
7 we had talked about when Corpus Christi closed?

8 MS. OLEWIN: In the administrative?

9 CHAIRMAN ADAMS: Yeah. And were they  
10 administrative or -- there was a -- there was kennel  
11 repair. There was all kinds of other items that were  
12 discussed.

13 MS. OLEWIN: Yes, sir, I believe most of  
14 those have been cleaned up. We do have an inspection  
15 planned and a program in place. Corpus Christi has  
16 provided us a letter just recently about upkeep and  
17 maintenance of the facility.

18 CHAIRMAN ADAMS: Okay. Very good.

19 Any other questions?

20 Thank you, ma'am.

21 The next item is Item C under Tab 2,  
22 report and update by the executive director and staff  
23 regarding administrative matters. Our executive  
24 director, Charla Ann.

25 MS. KING: Thank you, Mr. Chairman.

1           The first two items of my report relate  
2 to the greyhound industry and the Corpus Christi  
3 greyhound update first. The priority in Corpus Christi  
4 remains the placement and adoption of the remaining  
5 greyhounds. As of today, there will be 71 greyhounds  
6 on the grounds in the adoption kennels. The Texas  
7 Greyhound Adoption Program, the Greyhound Adoption  
8 League of Texas, and the Texas Greyhound Association  
9 are all continuing their efforts in conjunction with  
10 numerous adoption organizations.

11           We've handed out the most recent  
12 statement from the Texas Greyhound Association and you  
13 have it before you in your materials. It provides a  
14 few more details about adoption efforts and some words  
15 of appreciation for everyone who has contributed to the  
16 resolution of what Diane Whiteley has called a daunting  
17 task. And it has been.

18           We still have two Commission staff  
19 members who are working at the track. They're  
20 assisting in monitoring the remaining closure  
21 activities. The goal at this point is to have all of  
22 the greyhounds moved or placed by February 29th.

23           In addition, staff officially notified  
24 the association about the inactive license procedures  
25 and the protocol for maintaining the facility. The

1 track has submitted a response to our request for a  
2 written maintenance plan. We're currently reviewing  
3 their approach and will be advising the general manager  
4 of any plan modifications that need to be made. We  
5 appreciate the cooperation of Rick Pimentel, the  
6 current general manager.

7 So unless anybody has a question about  
8 Corpus Christi, I will move on to Valley Race Park.

9 Next I want to talk about a problem that  
10 occurred with the opening of Valley Race Park. In  
11 early January we received a letter from the Greyhound  
12 Adoption League of Texas. They requested that we look  
13 into the condition of the Valley track surface. They  
14 were concerned about an increase in the number of  
15 injured greyhounds that were entering their adoption  
16 program from Valley Race Park. This is the  
17 organization that has served as the sole adoption  
18 outlet for Valley for the past six years.

19 Our staff became aware of an increased  
20 injury rate in late December. They initiated  
21 discussions with the trainers and track management to  
22 review the injuries and determine what could be done to  
23 improve the safety of the track. These discussions  
24 focused on track watering practices and improvements to  
25 the quality of fill material that's used on the track.





1 "perpetual" in terms of the racetrack license, making  
2 amendments to the racetrack applications, demonstration  
3 of reasonable diligence in preparing a racetrack for  
4 racing, sufficiency of our racetrack license  
5 application fees, and adequacy of the grounds for  
6 denial, suspension, or revocation of a license for  
7 various failures on the part of the applicant or the  
8 licensee.

9           Discussions also included the results of  
10 a staff survey of other racing jurisdictions' licensing  
11 provisions. RCI assisted us with the distribution of  
12 our questions, and the response was pretty good from  
13 our fellow RCI members.

14           Included in our survey by your request at  
15 the last meeting was a question regarding whether other  
16 states' statutes or rules have a provision for the  
17 interim racetrack license. Of the jurisdictions that  
18 responded, we are the only state that has such a  
19 provision. So with that information, we'll be looking  
20 to the Attorney General's office for an opinion on our  
21 statutory authority to provide such a license.

22           We appreciate the feedback that we  
23 received from the tracks at the meeting. They provided  
24 their practical concerns, as usual, about our proposals  
25 and they helped build context for staff and the

1 Commissioners as well.

2 We encouraged all of the participants to  
3 continue reviewing Chapter 309. It's a very important  
4 chapter. We indicated that we are open to additional  
5 input as they consider their proposed changes with  
6 their own stakeholders, taking them back and talking to  
7 their folks. Right now the plan is to have a packet of  
8 proposed changes ready for consideration at the  
9 Commission meeting in April.

10 Commissioner Sowell and Commissioner  
11 Pablos may want to add something as you prepare to  
12 consider Chapter 309. Staff definitely appreciated  
13 their participation in the process.

14 Commissioners, anything you'd like to  
15 add?

16 CHAIRMAN ADAMS: I'd just like to thank  
17 Commissioner Sowell and Pablos for taking on this task  
18 and we very much appreciate it.

19 MS. KING: Now to --

20 CHAIRMAN ADAMS: Go ahead.

21 MS. KING: Now to the sunset review  
22 update. Since my last report to you at the November  
23 27th meeting, the sunset team has concluded their field  
24 work with visits to Corpus Christi Greyhound Racetrack  
25 and Lone Star Park. Our staff and the association

1 staff did an excellent job in making the field work  
2 educational and very informative. The Lone Star Park  
3 visit was enhanced by Commissioner Schmidt, as he was  
4 able to join in on parts of the tour in making his  
5 first official visit to a track.

6           While the field work is over, the team  
7 led by Kelly Kennedy, who I see is here with us today,  
8 continues with their in-depth study, including ongoing  
9 discussions with Commissioners and department managers  
10 as they're working to finalize their -- formulate and  
11 finalize their recommendations on the Racing  
12 Commission.

13           We've prepared for you information  
14 regarding key sunset dates and it is in a memo at your  
15 place. In that information you will see the  
16 publication of the staff report is set for March 14th.  
17 The public hearing is to be held on April 22nd. The  
18 decisions will be made at a meeting to be held on June  
19 24th and 25th.

20           We'll keep you posted on the developments  
21 as we go along. We've provided your offices -- we  
22 faxed this information to your offices as well so that  
23 you can get that information on your calendars. I  
24 suggest taking a good look at that information because  
25 it will help you see your role in the process as well.

1           We're looking forward to the results of  
2 the review. We believe we can make improvements that  
3 will benefit the Commission, the industry, and the  
4 public. And that's all I have on sunset.

5           Next is the RCI annual conference in  
6 Austin. Preparations for this meeting continue. We're  
7 pleased to announce that our chairman will be a key  
8 participant and provide a Texas welcome to open the  
9 conference. We'll have a taped welcome by the  
10 Governor. And our State comptroller and Racing  
11 Commission member Susan Combs has graciously agreed to  
12 provide the opening keynote address.

13           Remember, the meeting takes place the  
14 last week in March, starting on Tuesday, the 25th. The  
15 program is in the process of being finalized and we'll  
16 try to get that out to you as soon as we can. The  
17 plans now include a racing medication round table with  
18 a joint meeting of members of RMTC, the Racing  
19 Medication Testing Consortium, the RCI executive  
20 directors committee, the Association of Official Racing  
21 Chemists, and the national HBPA executive committee is  
22 going to attend as well and be part of the round  
23 table.

24           Also there will be an in-depth view of  
25 wagering security and evolving technology in that

1 area. And this year further emphasis is to be placed  
2 on greyhound racing issues and we're hoping that the  
3 Quarter Horse committee will be well attended and an  
4 interesting discussion. A stewards round table is  
5 planned and there will be a session with members of the  
6 racing media. And of course, there will be ample  
7 opportunity for you all to network and meet with our  
8 counterparts from other states.

9 We've provided a registration form for  
10 you today in your packet; so please take a look at it,  
11 fill it out, return it to Gloria so we can make sure  
12 that we can provide for all who want to attend.

13 The last thing I wanted to mention is  
14 that you have the annual report that we published last  
15 week at your spot there and I want to thank the staff,  
16 particularly Curley Trahan and Jean Cook who have led  
17 the effort in turning out that report. It's a very  
18 good annual report and my guess is that it's probably  
19 the most comprehensive annual report that's published  
20 by a State agency.

21 So it should be a good tool for all of  
22 you. There's a lot of good information in it. The  
23 public uses it. The media uses it. When people call  
24 and ask us questions, we send them to that annual  
25 report. And so I just wanted to make sure you saw it

1 and I got to thank the staff. They worked very hard on  
2 it.

3 Mr. Chairman, that completes my report.

4 CHAIRMAN ADAMS: Very good. Thank you  
5 very much. I would like to ask you, regarding the  
6 sunset public hearing, would it be advantageous to have  
7 Commissioners at that public hearing or would that be  
8 not kosher?

9 MS. KING: We absolutely encourage  
10 attendance by the Commission to that meeting. The  
11 Chair and the Vice-Chair will be leading the discussion  
12 at the table with support from myself and Mark and any  
13 key staff member that's touched by a recommendation,  
14 you know, that they make. But it's important to the  
15 Commission and to the members of the Legislature that  
16 not just the leadership of the Commission show up.  
17 They do like to see the other Commissioners as well.

18 It's a very interesting proceeding as  
19 well. If you haven't seen the Sunset Commission work,  
20 it's definitely worth just seeing it from a process  
21 perspective. So, yes, we encourage attendance to that  
22 meeting.

23 CHAIRMAN ADAMS: And where is that  
24 meeting going to be held?

25 MS. KING: They've mostly been in the

1 House appropriations committee room in the capitol  
2 extension.

3 CHAIRMAN ADAMS: Okay. You'll get us  
4 information on that?

5 MS. KING: And we will get you that  
6 information and confirm that that's where it will be  
7 that day.

8 CHAIRMAN ADAMS: Secondly, I want to --  
9 as far as the RCI convention is concerned, I want to  
10 encourage Commissioners to all take part, if at all  
11 possible, in as much of that convention as you can. I  
12 did get the privilege -- Mr. Ederer -- Commissioner  
13 Ederer and I got the privilege to go to the last  
14 session in Tucson and it was a very interesting format  
15 and a very interesting meeting.

16 Charla Ann -- of course, this is the  
17 first time that Texas will have had the opportunity to  
18 host this convention for RCI, so it's a real -- quite  
19 an interesting and unusual situation for us. So please  
20 everyone try to mark your calendars for that last week  
21 in March. And it's at the Driskill Hotel here in  
22 Austin, downtown Austin.

23 Any other questions regarding -- or  
24 comments regarding Charla Ann's report?

25 Hearing none, I'll move on to the next



1 item of business; and that is at Tab 3, proceedings on  
2 occupational licensees, discussion, consideration, and  
3 possible action on the following matters: Firstly, the  
4 proposal for decision in SOAH No. 476-07-3913, the  
5 appeal by Mike Quirk from Stewards' Ruling Sam Houston  
6 Race Park 3872. Ms. Fritsche, Texas Racing Commission  
7 attorney, please.

8 MS. FRITSCHER: Good morning,  
9 Commissioners. I'm Rhonda Fritsche, legal counsel for  
10 the Commission. We did send notice to Ms. Quirk's  
11 attorney of record for this hearing today, but I do not  
12 see him or Ms. Quirk here.

13 We actually have two cases for you to  
14 consider today. The first case is Sam Houston Race  
15 Park 3872. This case involved a licensee who refused  
16 to submit to a drug test. The stewards summarily  
17 suspended the licensee for 30 days for refusing to  
18 submit to the test.

19 The licensee participated at the  
20 stewards' hearing with legal counsel. The stewards'  
21 ruling made the licensee's reinstatement contingent  
22 upon a satisfactory evaluation by the Texas Racing  
23 Commission medical review officer, by providing a  
24 negative sample, and compliance with any rehabilitation  
25 aftercare and further testing as determined by the

1 medical review officer.

2 The administrative law judge did not find  
3 any clear error with the stewards' ruling and staff  
4 would recommend that you adopt the proposal for  
5 decision in whole.

6 CHAIRMAN ADAMS: And let's handle these  
7 individually and you can address the second one in a  
8 second, Counsel.

9 Is Mr. Kevin Bell here or a  
10 representative?

11 If not, the Chair will recognize a motion  
12 to adopt the proposal for decision without  
13 modification.

14 COMMISSIONER SOWELL: So move.

15 COMMISSIONER EDERER: Second.

16 CHAIRMAN ADAMS: It's moved by  
17 Commissioner Angelo and seconded by Commissioner  
18 Ederer.

19 Any comments, discussion before we call a  
20 vote?

21 All those in favor please say aye.

22 COMMISSIONERS: Aye.

23 CHAIRMAN ADAMS: Any opposed?

24 The motion carries.

25 Thank you, ma'am. Next item.

1 MS. FRITSCHER: That would be Sam Houston  
2 Race Park 3871. The notice was also sent to the  
3 attorney of record for Mr. Martin in this case and I do  
4 not see either of those parties here.

5 This case involved a licensee who was  
6 convicted of a felony for possession of a controlled  
7 substance and sentenced to 20 months of incarceration  
8 in a State jail facility. His sentence was suspended  
9 with a condition of four years of community  
10 supervision.

11 Mr. Martin was duly noticed at the  
12 stewards' hearing but did not appear. The stewards  
13 suspended the licensee for the term of his community  
14 supervision, and that is until August 8th of 2011, at  
15 which time he will be eligible to reapply for a Texas  
16 Racing Commission license.

17 The administrative law judge found no  
18 clear error with the stewards' ruling and staff would  
19 recommend that you adopt the proposal for decision in  
20 whole.

21 CHAIRMAN ADAMS: Any questions?

22 Is Mr. Robert Ford or an attorney for  
23 Jacky Martin present today to speak?

24 If not, the Chair will entertain a motion  
25 to adopt the proposal for decision without

1 modification.

2 COMMISSIONER PABLOS: So move.

3 COMMISSIONER SOWELL: Second.

4 CHAIRMAN ADAMS: Commissioner Pablos  
5 moved. And seconded by Commissioner Angelo? Sowell.

6 Any questions or discussion on the  
7 motion?

8 All those in favor please say aye.

9 COMMISSIONERS: Aye.

10 CHAIRMAN ADAMS: Any opposed?

11 The motion carries.

12 Item C, the appeal of James Donnan from a  
13 stewards' ruling at Sam Houston Racetrack. And I  
14 believe Mr. Fenner will address this.

15 MR. FENNER: Commissioners, this is a  
16 case that began several years ago, back in 2002. The  
17 Commission reviewed a proposal for decision much like  
18 you have considered already two of which today. In  
19 that case the Commission redistributed the purse for a  
20 horse, Chauffe Au Rouge, and fined the licensee,  
21 Mr. James Donnan -- or suspended him for 60 days.  
22 There was no fine or penalty financially in that case.

23 They appealed that case to court and the  
24 District Court remanded it to the Commission for  
25 further consideration. Mr. Donnan also had a

1 long-running appeal and contested case against the  
2 Texas Thoroughbred Association that ultimately went up  
3 all the way to the Texas Supreme Court. And the Texas  
4 Thoroughbred Association did prevail. It has now come  
5 back down and the Commission is in a position to issue  
6 a decision on this.

7           However, we have gone into negotiations  
8 with Mr. Donnan regarding resolving this; and the  
9 proposed settlement would reduce the 60-day suspension  
10 to a 15-day suspension and add a financial penalty of  
11 15 -- \$6,000. The 15 days would run starting  
12 tomorrow. The purse is still lost. It will be  
13 redistributed.

14           I would recommend that we accept this  
15 settlement so we can move on.

16           CHAIRMAN ADAMS: And the Commission will  
17 need to take action on this item even though our agenda  
18 doesn't call for that at this time. So we can -- I'm  
19 going to put this at the pleasure of the  
20 Commissioners. If we want to have additional  
21 discussion on it, we may want to take it to executive  
22 session or if we can -- if we can handle it right here,  
23 we can do it here. It will be the only item on  
24 executive session if you choose to do that, so it's  
25 purely up to the Commissioners and I'll yield to your

1 all's feelings on that.

2 Turn your mike on. Anyone, if you need  
3 to use it, you need to turn your mikes on. There's a  
4 little button under here.

5 VICE-CHAIRMAN CARTER: Repeat the  
6 changes.

7 MR. FENNER: The original Commission  
8 decision was to redistribute the purse so that  
9 Mr. Donnan would not gain the purse and to suspend him  
10 for 60 days. The proposed settlement continues the  
11 redistribution of the purse, but the 60 days has been  
12 reduced to 15 days and a financial penalty of \$6,000  
13 has been added.

14 COMMISSIONER EDERER: This has now been  
15 agreed to?

16 MR. FENNER: Yes, sir. I've got a signed  
17 version with the signatures of both Mr. Donnan and his  
18 attorney.

19 CHAIRMAN ADAMS: So what's the wishes of  
20 the Commission?

21 VICE-CHAIRMAN CARTER: It sounds  
22 reasonable to me; and in fact, I would move we accept  
23 that.

24 CHAIRMAN ADAMS: Do I hear a second?

25 COMMISSIONER SOWELL: Second.

1                   CHAIRMAN ADAMS:  It's been moved and  
2                   seconded that we accept the settlement offer that's  
3                   been negotiated between staff and the parties.

4                   All those in favor please say aye.

5                   COMMISSIONERS:  Aye.

6                   CHAIRMAN ADAMS:  Any opposed?

7                   The motion carries.

8                   Thank you, Mr. Fenner.

9                   The next item is proceedings on  
10                  racetracks, discussion, consideration, and possible  
11                  action on the following matters:  Tab 5, Item No. 1 is  
12                  a request by Valley Race Park to designate an  
13                  additional charity day race.  Mr. Roth?  Mr. Roth is  
14                  not here, I see.

15                  MR. BORK:  But Mr. Bork is.  Good  
16                  morning, Commissioners.  My name is Bob Bork.  Milt  
17                  Roth could not be here today.  But this is a simple  
18                  request to add an additional charity day to the  
19                  schedule of Valley Race Park.  Originally it was not  
20                  added in there until we came up with the proper charity  
21                  and we're just adding it at this time.

22                  CHAIRMAN ADAMS:  Thank you, Mr. Bork.

23                  Any questions for Mr. Bork?

24                  Staff -- I assume staff is recommending  
25                  approval of this?

1 MS. KING: Yes, sir.

2 CHAIRMAN ADAMS: Any questions,  
3 Commissioners?

4 MR. ANGELO: Move approval.

5 CHAIRMAN ADAMS: It's been moved --

6 COMMISSIONER SCHMIDT: Second.

7 CHAIRMAN ADAMS: -- and seconded that we  
8 approve the Valley racetrack's request to designate  
9 March 13th, 2008, as a charity day race day for the  
10 benefit of Rio Fest.

11 All those in favor?

12 COMMISSIONERS: Aye.

13 CHAIRMAN ADAMS: Any opposed?

14 The motion carries.

15 The second item, a request by Sam Houston  
16 Race Park to amend the 2008 live racing schedule. A  
17 representative from Sam Houston, please?

18 MR. JOHNSTON: Good morning,  
19 Commissioners. My name is Eric Johnston,  
20 vice-president of racing at Sam Houston Race Park.

21 In October of 2007 Sam Houston Race Park  
22 petitioned the Commission to add New Year's Eve for  
23 2007. In the wisdom of the Commission, that date was  
24 granted. It was promoted and turned out to be the  
25 fifth largest live Thoroughbred handle day of our 2007



1 season.

2 Looking at that experience, we determined  
3 already that it would be a great advantage to Sam  
4 Houston Race Park to add New Year's Eve of 2008 and so  
5 request to do so today.

6 CHAIRMAN ADAMS: Any questions for  
7 Mr. Johnston?

8 Thank you, sir.

9 MR. JOHNSTON: Thank you.

10 CHAIRMAN ADAMS: I also have signed to  
11 speak on this item Mr. Dave Hooper.

12 MR. HOOPER: Mr. Chairman, I just signed  
13 up to support the request.

14 CHAIRMAN ADAMS: Okay. Thank you, sir.

15 Is that also the case with Mr. Robert  
16 Bork?

17 Okay. I'm going to assume so then.

18 Any questions regarding this item, Tab 6,  
19 Item 5-B, from the Commission?

20 The Chair would --

21 COMMISSIONER SOWELL: Move that we  
22 approve it.

23 CHAIRMAN ADAMS: It's been moved --

24 COMMISSIONER EDERER: Second.

25 CHAIRMAN ADAMS: -- and seconded that we

1 approve Sam Houston Park's request to add December  
2 31st, 2008, to its live race date calendar.

3 All those in favor please say aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN ADAMS: Any opposed?

6 The motion carries.

7 Item C, a request by Retama Park to amend  
8 its 2008 live racing schedule. Mr. Brown?

9 MR. BROWN: Good morning, Commissioners.  
10 Retama Park was granted race dates prior to the  
11 conclusion of our Thoroughbred meet this fall. Given  
12 that this was a change to -- a somewhat slight  
13 modification to our schedule we've run in previous  
14 years, we wanted to run through the meet and see how it  
15 worked and come back to you with any changes.

16 One of the things that we tried to do was  
17 avoid Labor Day weekend. Knowing that many racetracks  
18 conclude their meets around that time, we were worried  
19 about the supply of horses for that particular  
20 weekend. As it turned out, we had a whole lot of  
21 horses sitting in our stalls Labor Day weekend ready to  
22 run.

23 And what this request does is move our  
24 meet into that weekend to where it would start Labor  
25 Day weekend. It would conclude a week earlier than the

1 Commission has approved.

2 That does a couple of things. One, it  
3 gives us the holiday weekend to race on and it also  
4 moves our meet away from Sam Houston Race Park's. It  
5 gives the horses another week to rest up and gives Sam  
6 Houston more horses available, we think, on their  
7 opening weekend.

8 One change I need to point out, the dates  
9 that you have in front of you should be modified. The  
10 way this request reads, we would start out and open up  
11 on Labor Day weekend and race Friday, Saturday,  
12 Sunday. That Sunday would be the only Sunday we'd race  
13 in the meet and that doesn't make a lot of sense upon  
14 further review.

15 So we would request that this be modified  
16 to where we would open up -- excuse me, add August 29th  
17 and 30th and also add September 4th. So we would not  
18 be racing Sunday, August 31st. We still delete the  
19 same days in November.

20 This leaves the number of race dates we  
21 race the same; and again, we think it helps us and  
22 helps Sam Houston Race Park as well. I think  
23 representatives from Sam Houston are prepared to  
24 testify to that.

25 I'll be happy to answer any questions you

1 have.

2 CHAIRMAN ADAMS: Okay. Let me make sure  
3 I've got this straight now, Mr. Brown. So your  
4 revised-revised request is for August the 29th and 30th  
5 and September the 4th --

6 MR. BROWN: Correct.

7 CHAIRMAN ADAMS: -- be added and deleting  
8 November 22nd -- 20th, 21st, and 22nd.

9 MR. BROWN: That's correct.

10 CHAIRMAN ADAMS: Any questions of  
11 Mr. Brown?

12 I think not, sir. Thank you very much.

13 MR. BROWN: Thank you.

14 CHAIRMAN ADAMS: Mr. Hooper, is this in  
15 favor of that request?

16 MR. HOOPER: Yes, sir.

17 CHAIRMAN ADAMS: Okay. Thank you, sir.

18 Would anyone else like to speak on this  
19 item?

20 If not, the Chair will entertain a motion  
21 to approve Retama's request to add August the 29th,  
22 30th, September the 4th and delete November the 20th,  
23 21st, and 22nd from its 2008 live race calendar.

24 COMMISSIONER EDERER: So move.

25 MR. ANGELO: Second.

1                   CHAIRMAN ADAMS:  It's been moved and  
2                   seconded that we approve their amended request.

3                   John, did you have something?

4                   MR. FERRARA:  Are they asking to delete  
5                   the 31st of August?

6                   CHAIRMAN ADAMS:  Yes, they're asking to  
7                   delete the Sunday, the 31st, and add the 4th.  So we're  
8                   okay with that?

9                   Okay.  It's been moved and seconded that  
10                  that amended request be approved.

11                  Any discussion?

12                  All those in favor?

13                  COMMISSIONERS:  Aye.

14                  CHAIRMAN ADAMS:  Any opposed?

15                  The motion carries.

16                  Thank you, Mr. Brown.

17                  A request by Manor Downs to approve  
18                  merger and reorganization of Manor Downs and Manor  
19                  Downs Partners, LP.  Mr. Howard Phillips of Manor  
20                  Downs, please.

21                  MR. PHILLIPS:  Good morning,  
22                  Mr. Chairman, Commissioners.  I'm Howard Phillips here  
23                  representing Manor Downs and to answer any questions  
24                  you may have.  I think the attorney's explanation in  
25                  there is probably better than anything I can give you,

1 but I will be available for any questions.

2 CHAIRMAN ADAMS: Thank you,  
3 Mr. Phillips.

4 Mr. Fenner, we've reviewed and approved  
5 their request, have we not?

6 MR. FENNER: Yes, sir. The Commission  
7 reviewed substantially and approved substantially the  
8 same merger two years ago. This is a very slight  
9 modification of the merger. I do believe that it is a  
10 legal merger and it does not involve the transfer of a  
11 license, so I do recommend approval.

12 CHAIRMAN ADAMS: Okay. Any questions on  
13 this item?

14 All those in favor -- let me ask -- let  
15 me state the motion here. A motion to approve the  
16 proposed merger and reorganization of Manor Downs,  
17 Incorporated, and Manor Downs Partners, LP, and to  
18 stipulate that these do not continue the transfer of a  
19 license that would be prohibited under Section 6.12 of  
20 the Texas Racing Act.

21 COMMISSIONER SOWELL: So move.

22 CHAIRMAN ADAMS: Moved by Commissioner  
23 Sowell.

24 COMMISSIONER EDERER: Second.

25 CHAIRMAN ADAMS: Seconded by Commissioner

1 Ederer.

2 All those in favor please state aye.

3 COMMISSIONERS: Aye.

4 CHAIRMAN ADAMS: Any opposed?

5 Thank you very much. The motion  
6 carries.

7 Okay. Item 6 on the agenda this morning  
8 is our proceedings on rulemaking, discussion,  
9 consideration, and possible action on a whole list of  
10 rules that have been posted. And so I'll ask Mark  
11 Fenner to please bring us up to speed on this.

12 MR. FENNER: Commissioners, these are  
13 proposals that were considered by the Commission at the  
14 meeting before last in conjunction with its review of  
15 the rules under Chapter 311. All of these rules have  
16 been worked out with the industry.

17 The rules were posted in the January 4th  
18 edition of the Texas Register. We did not receive any  
19 written comments regarding these. However, I did  
20 receive a call yesterday from Diane Whiteley of the  
21 Texas Greyhound Association with some concerns about  
22 one of these rules, which is Section 311.104. And I  
23 have provided to all of you on your materials a  
24 separate handout. You'll see that it says at the  
25 bottom Tab 9-7 and it goes through 9-9.

1                   What Ms. Whiteley observed was that  
2                   Section (k)(4) on the second page, 9-8 -- that that  
3                   Section (k)(4) does not really apply well to the  
4                   greyhound industry and she made the same observations  
5                   regarding No. 13 on the last page of your handout  
6                   there.

7                   And so I've discussed it with John  
8                   Ferrara and with Cathy Cantrell, who's been our Chapter  
9                   311 coordinator, review coordinator; and what we would  
10                  propose is to go ahead and strike those two sections  
11                  and renumber the remaining entries and go ahead and  
12                  adopt it. We would then go back to our office and take  
13                  a closer look at these provisions and see if there is  
14                  an omission that we still need to fill in or whether  
15                  there needs to be a distinction between how we treat  
16                  the horse trainers and the greyhound trainers.

17                  If you have questions about this, I think  
18                  John Ferrara would be able to come up and answer  
19                  questions about these specific provisions. Otherwise,  
20                  we would recommend that you adopt all of these sections  
21                  in the Section 6-A as published in the Texas Register  
22                  with the exception of this 311.104 and that we adopt  
23                  instead the version you have before you.

24                  CHAIRMAN ADAMS: Thank you, Mr. Fenner.

25                  Did everyone find that in your packet and



1 get a chance to look at that? There's two items that  
2 Ms. Whiteley has questioned. That would be line 21,  
3 Item 4, on page -- Tab 9, page eight, of the amendment  
4 311.104 regarding trainers and line 17 on page nine or  
5 the next page of that same amendment. And if there are  
6 questions about that -- yes.

7 MR. ANGELO: Mr. Chairman, I'm curious as  
8 to what -- if that does apply to horses and doesn't  
9 apply to greyhounds, how would those provisions be put  
10 back in at some other time? What would be the proposal  
11 there?

12 MR. FENNER: Let me ask our subject  
13 matter expert on that.

14 MR. FERRARA: John Ferrara, director of  
15 racing. The change of ownership in horse racing is  
16 covered in another chapter, Section 311.101(5)(c), "If  
17 the owner of an interest in a horse housed on an  
18 association's grounds transfers that interest to  
19 another person, both parties to the transaction shall  
20 given written notice of the transfer to the stewards  
21 officiating for that association."

22 So any change of ownership at a horse  
23 track is covered, that they have the responsibility to  
24 report it. And the same thing -- in 311.102(b), it's  
25 the same verbiage under greyhounds. So we're covered

1 as far as a change of ownership.

2 CHAIRMAN ADAMS: Okay, sir. Did that  
3 take care of your question?

4 MR. ANGELO: Yeah.

5 VICE-CHAIRMAN CARTER: On this, could I  
6 ask a question about the one that was crossed out,  
7 No. 4?

8 MR. FERRARA: Yes.

9 VICE-CHAIRMAN CARTER: It's in red in  
10 this secondary handout here. So they don't have to  
11 disclose who the owner of a greyhound is?

12 MR. FERRARA: Yes, they do. But the  
13 responsibility is -- in another chapter it puts the  
14 responsibility on the owner.

15 VICE-CHAIRMAN CARTER: Not on the  
16 trainer.

17 MR. FERRARA: Not on the trainer. And I  
18 think the owner would know better than the trainer if  
19 there is a change of ownership. So I feel like we're  
20 covered.

21 VICE-CHAIRMAN CARTER: That's what both  
22 of these are about is switching the responsibility to  
23 the owner, not the trainer?

24 MR. FERRARA: Well, we were trying to put  
25 it on the trainer; but it's already in our rule book

1 that the owner has the responsibility; and again, I  
2 think the owner would know --

3 VICE-CHAIRMAN CARTER: Okay.

4 MR. FERRARA: -- before the trainer  
5 would.

6 COMMISSIONER EDERER: You said you were  
7 trying to put it on the trainer? Or the document was  
8 trying to put it on the trainer?

9 MR. FERRARA: These are from the RCI  
10 guidelines and we went with the guidelines and I guess  
11 they're trying to make the trainer accountable. But  
12 again, we already have another chapter where we made  
13 the owners accountable.

14 COMMISSIONER EDERER: But you felt that  
15 the trainer should be accountable and that's why you  
16 put it in here?

17 MR. FERRARA: To be honest with you, we  
18 just went with the RCI guidelines, the Racing  
19 Commission International. They have model guidelines;  
20 and when we decided to change our trainer  
21 responsibility rule, we just went with the guidelines.  
22 And to be honest, the RCI guidelines are more  
23 orientated towards horse racing than greyhounds.

24 MR. FENNER: Commissioners, if I may  
25 address that a little bit. Part of what Diane's

1 concern was that indeed these model guidelines or model  
2 rules are focused more towards horses; and then, of  
3 course, in the horse world the trainer is going to be  
4 in a position to know far more -- he's ultimately  
5 responsible for that horse, while in the greyhound  
6 world you have this relationship between the kennel  
7 owner and the trainer where the kennel owner has a more  
8 direct relationship with the owner than the trainer  
9 does.

10 And so it did not really apply as well in  
11 the greyhound world as it did in the horse world. And  
12 so that's part of the issue of why we need to take this  
13 back and look at it again and make sure that we have an  
14 appropriate response for each of the two related but  
15 different industries.

16 COMMISSIONER EDERER: So you're not  
17 asking for any approval on this at this time.

18 MR. FENNER: We're asking for approval of  
19 the rest of it.

20 COMMISSIONER EDERER: I understand that.  
21 But this not. This still applies to trainers for  
22 horses.

23 MR. FENNER: Under a separate rule,  
24 existing separate rules, we would have a way to address  
25 the types of shortcomings that this addresses.

1                   COMMISSIONER SOWELL: It seems like the  
2 point is simply that we already have these things  
3 covered and to put them again in here creates confusion  
4 and --

5                   MS. KING: It does. But we were leaving  
6 the door open to go back and look at this again because  
7 this was called to our attention at the 11th hour and  
8 it was just simply missed in terms of the process where  
9 everybody got together with the industry and looked at  
10 it. And we just want to go back and make sure that the  
11 provisions that we have include everything that RCI  
12 intends, you know, to make sure that works; and then if  
13 there's an additional change for greyhounds, we would  
14 come back and propose that.

15                   So we think we've got good coverage.  
16 It's a process of comparing for the sake of uniformity  
17 nationwide. You know, we're making a commitment, to  
18 the degree we can, to be consistent with RCI  
19 regulations where it makes sense; and as you can see,  
20 the regulations are pretty specific. And we wish the  
21 process had caught this earlier, but we don't want to  
22 go forward with it until we know.

23                   COMMISSIONER SOWELL: So we can expect  
24 that in the near future someone will say "Upon further  
25 review" and tell us what to do with it.

1 MS. KING: Exactly. Yes, sir. We just  
2 haven't had time to do as careful a review as we would  
3 like.

4 CHAIRMAN ADAMS: If I may, additionally,  
5 in defense of these, the trainers and owners that are  
6 out there that are operating in multiple states, it's  
7 very difficult to keep abreast of all of these  
8 different rules if we don't have some consistency. So  
9 we're trying to be as consistent as we can by following  
10 RCI, but this one did slip through and we didn't catch  
11 it and Diane caught it at the last minute here.

12 Any other discussion on this?

13 I'm going to entertain a motion to  
14 approve all the items that were published and discussed  
15 previously by the Commission, including Item 5 with the  
16 deletion of those two items that we spoke to, Paragraph  
17 4 on page eight and Paragraph 13 on page nine of the  
18 Section 311.104.

19 COMMISSIONER SOWELL: So move.

20 COMMISSIONER SCHMIDT: Second.

21 CHAIRMAN ADAMS: Moved and seconded.

22 Any discussion?

23 All those in favor please say aye.

24 COMMISSIONERS: Aye.

25 CHAIRMAN ADAMS: Any opposed?

1                   The motion carries.

2                   The next item is amendment to Section  
3   313.111, age restrictions.   Counsel Fenner?

4                   MR. FENNER:   Commissioners, this was also  
5   published in the January 4th edition of the Texas  
6   Register as a proposal.   This was a request originally  
7   by the Texas Thoroughbred Association that we modified  
8   slightly.   It allows horses older than 12 years old to  
9   compete if they have finished in the top three of a  
10   race within the previous 12 months or if the board of  
11   stewards reviews the horse's prior performance and  
12   gives specific authorization for the horse to compete.

13                   We have not received any comments during  
14   the proposal period and staff would recommend  
15   adoption.

16                   CHAIRMAN ADAMS:   Any discussion?

17                   MR. ANGELO:   Move approval.

18                   VICE-CHAIRMAN CARTER:   Second.

19                   CHAIRMAN ADAMS:   It's been moved and  
20   seconded that the Commission adopt an amendment to Rule  
21   313.111 as published in the Texas Register.

22                   All those in favor please say aye.

23                   COMMISSIONERS:   Aye.

24                   CHAIRMAN ADAMS:   Any opposed?

25                   The motion carries.

1                   Tab 11, the next item, amendment to  
2     319.363, testing for total carbon dioxide. Mark  
3     Fenner, please.

4                   MR. FENNER: This rule change was  
5     proposed at the November Commission meeting. It was  
6     published in the January 4th edition of the Texas  
7     Register. It requires trainers to keep their horses'  
8     TCO2 levels below 37 millimoles per liter. This change  
9     will also make Texas consistent with the national  
10    norm.

11                  It's been published. The agency has  
12    received no comments during the notice period and we  
13    would recommend adoption.

14                  VICE-CHAIRMAN CARTER: So move.

15                  COMMISSIONER SOWELL: Second.

16                  CHAIRMAN ADAMS: Moved and seconded to  
17    adopt the amendment to Rule 319.363 as published in the  
18    Texas Register.

19                  All those in favor?

20                  COMMISSIONERS: Aye.

21                  CHAIRMAN ADAMS: Any opposed?

22                  The motion carries.

23                  Tab 12, Item D, amendment to 321.407,  
24    approval of wagering on simulcast import races.

25    Mr. Fenner?



1                   MR. FENNER: This change was also  
2 proposed by agency staff at the November meeting. The  
3 agency's improvements to automated procedures has  
4 shortened the time required to process a racetrack's  
5 request for approval to conduct wagering on simulcast  
6 import races. This proposal reduces the deadline for a  
7 racetrack's request from the current standard of three  
8 days to one day before the first simulcast race.

9                   We have received no comments during the  
10 comment period. I might note that the materials behind  
11 Tab 12 do have an incorrect title, but it was posted  
12 correctly in the agenda so you can go ahead and adopt  
13 it.

14                   CHAIRMAN ADAMS: Okay, sir.

15                   Any discussion?

16                   Hearing none, the Chair will entertain a  
17 motion to adopt an amendment to Rule 321.407 as  
18 published in the Texas Register.

19                   COMMISSIONER PABLOS: So move.

20                   CHAIRMAN ADAMS: It's been moved by  
21 Commissioner Pablos.

22                   COMMISSIONER SOWELL: Second.

23                   CHAIRMAN ADAMS: Seconded by Commissioner  
24 Sowell.

25                   All those in favor please say aye.

1 COMMISSIONERS: Aye.

2 CHAIRMAN ADAMS: Any opposed?

3 The motion carries.

4 We will not go into executive session as  
5 we don't have any items on our agenda for that. So  
6 under Item 8 on our agenda, old/new business, what are  
7 the wishes of the Commission on our next Commission  
8 meeting?

9 MR. FENNER: Commissioners, we discussed  
10 the next meeting and it appears that April 1 or the  
11 first Tuesday of each even month appear to be open for  
12 everybody. I'm not sure that we got with Ms. Hicks  
13 about that particular date.

14 COMMISSIONER HICKS: That's fine.

15 MR. FENNER: It's okay with you? Anybody  
16 else?

17 MS. KING: I think we visited with  
18 everyone. I do want to point out that that date will  
19 come the Tuesday right after RCI and so -- and it will  
20 be coming right around the sunset process. We have a  
21 big commitment to starting this first Tuesday because  
22 we think it will be a big benefit to the Commission and  
23 to the industry. But it will be a mad dash to that  
24 Commission meeting, I guarantee you. And I didn't have  
25 a chance to visit with you, Mr. Chairman, about that to

1 alert you to that issue.

2 CHAIRMAN ADAMS: It's only appropriate  
3 it's on April 1st, right?

4 MS. KING: That's true. So we're willing  
5 to give it a whirl if you are.

6 CHAIRMAN ADAMS: Anybody have any problem  
7 with that? Want to try it? Okay. We're going to try  
8 it then on April 1st.

9 Do we need a vote on that or consensus  
10 okay?

11 MR. FENNER: Uh-huh.

12 CHAIRMAN ADAMS: Okay. Hearing no  
13 further business, the Commission meeting is adjourned.

14 (Proceedings concluded at 11:17 a.m.)

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1 STATE OF TEXAS )

2 COUNTY OF TRAVIS )

3

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

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

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,  
15 Texas, this 14th day of February, 2008.

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