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BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

COMMISSION MEETING
FEBRUARY 25, 2009

Reported by: SHERRI SANTMAN FISHER
Job #75667

1 BE IT REMEMBERED that the above entitled matter
2 came on for hearing on the 25th day of February, 2009,
3 beginning at 10:30 A.M. at 6100 Guadalupe, Building E,
4 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: ROLANDO PABLOS
- G. KENT CARTER
- CHARLES L. "SONNY" SOWELL
- RONALD F. EDERER
- JESSE ADAMS
- ROBERT SCHMIDT
- GLORIA HICKS
- C. TOM CLOWE, JR.
- JIMMY ARCHER

1 CHAIRMAN PABLOS: Okay. Good morning. I
2 will call today's meeting of the Texas Racing
3 Commission to order. The time is 10:30.

4 Carolyn Weiss, will you please call the
5 roll?

6 MS. WEISS: Jesse Adams?

7 COMMISSIONER ADAMS: Here.

8 MS. WEISS: Jimmy Archer?

9 MR. ARCHER: Here.

10 MS. WEISS: Tom Clowe?

11 MR. CLOWE: Present.

12 MS. WEISS: Ron Ederer?

13 COMMISSIONER EDERER: Here.

14 MS. WEISS: Gloria Hicks?

15 COMMISSIONER HICKS: Here.

16 MS. WEISS: Robert Schmidt?

17 COMMISSIONER SCHMIDT: Present.

18 MS. WEISS: Sonny Sowell?

19 COMMISSIONER SOWELL: Here.

20 MS. WEISS: Kent Carter?

21 VICE-CHAIRMAN CARTER: Here.

22 MS. WEISS: Rolando Pablos?

23 CHAIRMAN PABLOS: Here.

24 Do we have a quorum?

25 MS. WEISS: Yes, sir.

1 unresolved items in the jockey quarter maintenance, but
2 those items have all now been resolved.

3 Sam Houston had an inspection of their
4 recently reopened simulcast pavilion with no
5 deficiencies.

6 Valley had several scheduled and
7 unannounced inspections. All deficiencies have been
8 resolved.

9 And there were three training track
10 inspections, which brings the total number of
11 inspections for this period to 23.

12 Are there any questions?

13 CHAIRMAN PABLOS: Any questions,
14 Commissioners?

15 Hearing none, thank you very much.

16 The next item, III-B, report and update
17 by the executive director and staff regarding
18 administrative matters. Charla Ann King? Thank you,
19 Charla Ann.

20 MS. KING: Good morning, Mr. Chairman and
21 Commissioners.

22 In regard to the sunset legislation, it
23 is my understanding that the bills are ready for
24 introduction. The sunset bill sponsors have been
25 selected. In the Senate, Senator Hinojosa is to carry

1 our sunset bill; and in the House, Representative
2 Kolkhorst is to carry the bill. We are hoping that the
3 bills will be filed by the end of this week but no
4 later than next week; and as soon as it's filed, we
5 will review the bill and start working with the sunset
6 staff and the bill sponsors' offices. We will keep you
7 posted on the progress of the bills.

8 I wanted to let you know of a management
9 change that we've made that repositions the director of
10 racing, John Ferrara, to return to the field to serve
11 as a chief steward and judge. This change honors
12 John's request to concentrate on the stewards' and
13 judges' performance with a much more direct and
14 hands-on oversight. This move will also aid in the
15 agency's current cash flow issue as John will work more
16 race meetings, allowing us to hold open an unfilled
17 steward position.

18 In concert with this change, on an
19 interim basis, Chuck Trout has assumed new duties as
20 the director of racing oversight. In this position
21 Chuck will provide management support to the racing
22 staff in addition to continuing oversight of the drug
23 testing program and the test barn technicians.

24 Commissioners, that's my report for today
25 unless you have some questions.

1 CHAIRMAN PABLOS: Are there any questions
2 of Charla Ann?

3 COMMISSIONER EDERER: Yes. Charla Ann,
4 could you get us just a little bullet point when the
5 Sunset Commission does come out with their report?

6 MS. KING: Yes, sir, we will get you a
7 document that summarizes it.

8 COMMISSIONER EDERER: Just very briefly,
9 and then if you could keep us advised as to how the
10 bill proceeds.

11 MS. KING: Yes, sir, definitely.

12 COMMISSIONER EDERER: Appreciate it.

13 Thank you.

14 MS. KING: You're welcome.

15 CHAIRMAN PABLOS: Any other questions of
16 Charla Ann?

17 Thank you, Charla Ann.

18 We'll move on to Item III-C, a report by
19 the State auditor's office on its classification study
20 of exempt positions. Do we have a representative from
21 the State auditor's office?

22 Good morning. Please state your name.

23 MS. BAILEY: Good morning. My name is
24 Christine Bailey. I'm with the State auditor's
25 office. And I was the project manager on the report of

1 the classification study of exempt positions. I have a
2 handout.

3 MS. KING: That will be great.

4 MS. BAILEY: What I was going to do is
5 just go over some high points of the report and then
6 see what questions you may have for me.

7 The study that we did on exempt positions
8 was completed last fall. It was the very first
9 comprehensive review of executive officer positions in
10 this state. We focused solely on 84 positions that
11 were exempt from the classification plan, which
12 essentially were the directors of all the State
13 agencies. We did not look at elected officials or
14 judicial positions.

15 We did a market comparison similar to
16 what we do on State classified employees when we go out
17 to look to see what those positions would be paid in
18 the market compared to our positions. And in order to
19 do that for these jobs, we included a balance of public
20 and private sector data for similar professional
21 positions.

22 And for a lot of the positions for State
23 agencies, there aren't identical matches in a lot of
24 other places. However, there was a survey that this
25 agency, the Racing Commission, provided to us of other

1 Racing Commission executives that was factored into
2 this. We also included other public sector data,
3 including what, for example, Cities and Counties might
4 be paying; and although they do not have an identical
5 position, we wanted to find out what they would be
6 paying for people who had similar scope and
7 responsibilities, as well as including private sector
8 data which touches on what positions outside of
9 obviously State or City governments pay.

10 We did not include in the private sector
11 data any positions that were -- excuse me, have stock
12 options or other equity-based compensation because that
13 really wasn't an apples-to-apples comparison for us.

14 And in every case we tried our best to
15 tailor each match to the minimum qualifications that
16 were required for each position. So for example, if a
17 job required someone to be a physician or an attorney,
18 that was factored in so that we could try to get as
19 close a match as possible.

20 We found overall, for all the State
21 agencies, that executive officer positions were not
22 competitive. In fact, we found that they were, on
23 average, 27 percent behind similar positions in the
24 market.

25 And so we included in our report

1 recommendations. I just want to point out these are
2 recommendations that we made to the Legislature. They
3 have to decide whether or not they want to implement
4 them.

5 But we recommended that we would adjust
6 the salary ranges that were already established for
7 executive officers and add two salary groups, that we
8 would increase the minimum salary for any executive in
9 the state from 49,080 dollars to 70,000, and that we
10 would assign executives to a salary group based upon
11 what we found in the market. So we were basing that
12 back on our decision.

13 And our recommendation was that executive
14 officers should be moved to at least the minimum of
15 their assigned groups. This is similar to what we do
16 with classified employees. If we make changes or we
17 recommend that they become reallocated, we say, at a
18 minimum, you need to move them to the low end of that.
19 And I included a couple of graphs that talk about --
20 that show what these ranges look like.

21 We also found in our report that there
22 was a lot of pay compression between the highest paid
23 officers and the executive officers in State agencies.

24 Excuse me. I've got allergies going on
25 this week.

1 We've actually found that 31 percent of
2 agencies in this state had employees who were paid
3 either at or above the pay of their executive
4 directors. So there's not a large distinction between
5 somebody who's an executive officer and an employee.

6 And we have a large number of employees,
7 23,000 employees, who are actually paid in pay ranges
8 that are very comparable to executive officers. And we
9 felt that that was noteworthy simply because you have
10 to start asking the question: What's the incentive to
11 move into a greater role if you can make that same
12 dollar amount in a lower level maybe manager or
13 director position?

14 I'm going to flip over to page six on the
15 handout. Like I said, the Legislature must decide
16 whether or not to implement these recommendations. If
17 they are implemented, they will still need to review
18 the individual salary group assignments.

19 When we assigned these, we assigned these
20 based solely upon what we found with the market data.
21 We certainly realize there are other factors that may
22 impact where an executive director might be paid and so
23 we didn't want to get into those discussions. We just
24 wanted to look at it from a numbers-based perspective.

25 And then the Legislature or the agency's

1 governing board, for example, the Commission here,
2 would also want to look at where they would pay
3 those -- that particular position in relation to the
4 entire salary range. And overall for the State, the
5 cost to implement these changes is 1.3 million dollars
6 for the biennium.

7 We included, along with our
8 recommendation, some guidelines to help people look at
9 determining individual salaries. This is just based on
10 general compensation methodology to maybe give people a
11 ballpark on what those ranges represent and where each
12 part of the range may factor in with each executive.

13 And what we would recommend is if this
14 does get implemented and you are looking at placing an
15 executive director in that range, you would want to
16 look at their years of experience, their current
17 performance level, education, certifications, licenses,
18 specializations, things that they're bringing above and
19 beyond what's minimally required for the job.

20 And we ended up splitting up our ranges
21 into three kind of broad tiers that, like I said, can
22 be used to place people. And the first one is a base
23 pay tier; and that base pay tier represents kind of the
24 minimum, what we were saying at the very bottom line
25 that you should be paying somebody for this position.

1 That bottom tier or that base pay tier may also be used
2 for people who are new to the position, have limited
3 experience; or in a lot of cases, if there's not
4 funding available to move people further into a range,
5 that can be used as well.

6 The midpart of that tier is the market
7 competitive tier, and that's kind of what we consider a
8 target. Not everybody is going to be at that target,
9 but that's where we looked at comparisons in the
10 marketplace. So somebody who was placed in that tier
11 should be a skilled performer, strong experience,
12 currently meeting all their performance targets, and
13 they're currently on track for all of their goals.

14 And then at the top end of that tier, if
15 someone were to place an employee in that top end,
16 that's what we consider a performance tier and it
17 represents pay rates above the market average for a
18 similar professional position. So we would say that
19 these people have skills, experience, performance above
20 and beyond what is normally required in that job; and
21 it's also a way to compensate individuals who are
22 outstanding performers, exceed current performance
23 targets, or are critical skill experts.

24 And so for the Racing Commission, what we
25 recommended, the current salary at the time we did this

1 report was 85,536. We found that in the market it's
2 about 117,948. So our recommendation would move this
3 position from current Salary Group 2 to 3. The minimum
4 cost to move to the beginning of that base tier would
5 be \$7,064 each year.

6 And so that's just to give you an idea of
7 what the recommendation is. Like I said, the
8 Legislature -- it's still up to them to determine what
9 they want to do with it; but if they do implement this,
10 the boards and commissions would have to be following
11 these guidelines.

12 Do you have any questions?

13 CHAIRMAN PABLOS: Are there any questions
14 of Ms. Bailey, Commissioners?

15 VICE-CHAIRMAN CARTER: I have one.

16 COMMISSIONER SOWELL: I have a comment.

17 CHAIRMAN PABLOS: Yes, Dr. Carter.

18 VICE-CHAIRMAN CARTER: Is this change --
19 is this supposed to be a -- all happen in one year? Or
20 is it over a two- or three-year period of time they're
21 trying to bring these salaries up to norm?

22 MS. BAILEY: The way the report was set
23 up, we were actually asked to look at this beginning
24 with fiscal year 2010, so it would be to implement it
25 the first year. However, if -- like I said, if the

1 Legislature wants to roll it out over a couple of
2 years, that's entirely a possibility. Or it might even
3 be somebody moves someone to the minimum and then they
4 wait, you know, a couple of years down the road to make
5 other adjustments, if necessary.

6 CHAIRMAN PABLOS: Commissioner Sowell?

7 COMMISSIONER SOWELL: Yes. I have a
8 comment on the whole situation. And I'd like to make
9 sure that everybody here understands that this is like
10 being invited to dinner with a group of folks but when
11 you get there, there's no chair to sit down and no
12 plate to be served on. And I know you're aware of that
13 because we are self-funded. We do not use money from
14 the State. And this really doesn't apply to us.

15 And my -- my feeling is that we ought to
16 move our director to a Tier 4 instead of Tier 3. It's
17 more in -- more in standing with the ability and the
18 performance and the difficult situation that we're
19 involved in. And I would think that we should
20 recommend that our executive director be moved to Tier
21 4, not Tier 3, recognizing that it doesn't amount to a
22 hill of beans because we don't use State money and
23 we're broke.

24 MS. BAILEY: Yes.

25 COMMISSIONER SOWELL: So that's my

1 comment, Mr. Chairman.

2 CHAIRMAN PABLOS: Thank you,
3 Commissioner.

4 Charla Ann, at this time would you give
5 us a brief background on our LAR appropriations
6 request? What is it that we recommended on that,
7 please?

8 MS. KING: Sure. In our legislative
9 appropriations request, we did recommend changing the
10 classification from a 2 to a 4. And we did that last
11 time as well, so this is the second time around that
12 the Commission has requested, with the legislative
13 appropriations request, that the salary be moved to a
14 4.

15 CHAIRMAN PABLOS: So last time we asked
16 for 4 and we got 2?

17 MS. KING: That's correct. They did not
18 change it. They did increase the salary to the 85, and
19 it had not been -- the salary had not been improved for
20 10 years.

21 CHAIRMAN PABLOS: Okay. Thank you.

22 Well, I agree with Commissioner Sowell.
23 I think we have to be not only competitive but also
24 cognizant of the complexity of this job and the fact
25 that we are self-funding and we're in a very

1 specialized industry. I think we -- you know, we need
2 to look forward and we need to plan ahead for the time
3 when Charla Ann decides to retire or move on. We need
4 to be able to attract high quality individuals. And as
5 many of you know, that's the way to do it is to offer
6 competitive salaries for these kind of situations.

7 So, staff, I guess you're seeking for
8 guidance from us as to how to move forward with this?

9 MS. KING: Yes, sir.

10 CHAIRMAN PABLOS: Commissioner Sowell?

11 COMMISSIONER SOWELL: Yes.

12 CHAIRMAN PABLOS: Are you prepared to
13 recommend that we maintain what we had recommended in
14 the appropriations request?

15 COMMISSIONER SOWELL: Yes. And I would
16 move that we do that.

17 CHAIRMAN PABLOS: Okay. Well, there's no
18 need to move. We're just asking for a recommendation.
19 But if anyone on the dais is opposed to it, I'd like to
20 hear your opinion. If not, then I'd like to guide
21 staff to go in that direction.

22 Commissioner Ederer?

23 COMMISSIONER EDERER: No. I would
24 certainly second that.

25 CHAIRMAN PABLOS: Okay. Any other

1 comments?

2 COMMISSIONER ADAMS: Mr. Chairman, I
3 agree.

4 CHAIRMAN PABLOS: Yes, sir.

5 COMMISSIONER ADAMS: I agree.

6 CHAIRMAN PABLOS: Everybody agrees?
7 Okay. Good.

8 Well, then that's your direction.

9 MS. KING: Thank you.

10 CHAIRMAN PABLOS: Thank you very much.

11 MS. BAILEY: Thank you.

12 CHAIRMAN PABLOS: Appreciate it.

13 We'll take Items III-D and E together.

14 We have a budget and finance update and a report by
15 working group on funding. Shelley Harris-Curtsinger,
16 please?

17 MS. HARRIS-CURTSINGER: Good morning,
18 Commissioners. Under Tab III-10, you will find an
19 update of the agency's fiscal year 2009 budget status.
20 We are currently 41.67 percent through fiscal year 2009
21 as of January 31st. We -- as you can see, we continue
22 to remain under budget.

23 Under Tab III-14, you will find a memo
24 that is a progress report from the working group on
25 funding that details the activities that have taken

1 place since the last Commission meeting to address the
2 agency's budgetary issues and cash flow shortfall.

3 I won't go into complete detail of the
4 memo, as you've had it; but I will state that the
5 current status of the FY '09 budget estimated that we
6 are 675,000 shortfall -- cash flow shortfall as of this
7 time, which represents 13.6 percent of the agency's
8 five-million-dollar operating budget.

9 We had asked -- we have taken some steps
10 to make reductions; and at the February 11th funding
11 meeting, we told the group that we had already yielded
12 \$137,000 in cuts in the agency. We had asked the
13 department heads to go through their own budgets and
14 see what they could determine were potential cuts that
15 they could take. They have now come back to us and
16 have offered up \$250,000 in potential budget
17 reductions.

18 We are now evaluating that information to
19 determine what cuts could be taken immediately and what
20 of these cuts could be taken by the end of the fiscal
21 year. The evaluation, along with the outcome of the
22 proposed rules today, will determine the severity of
23 the additional budget reductions that will impact the
24 agency's ability to operate efficiently and
25 effectively.

1 The documents following in the packet
2 include the letter that was sent to the Governor's
3 office representing an emergency and deficiency grant.
4 Although we have not received an official response, we
5 were first told that there were no funds that were
6 available because of the hurricanes. Just yesterday we
7 received calls from the Governor's office stating that
8 a grant may be possible.

9 The next four pages are the spreadsheets
10 that we provided to the working group on funding
11 showing the cash flow shortfall and the budget
12 reductions the agency had taken.

13 Lastly, you will find a letter to the
14 Governor's office and the Lieutenant Governor's office
15 and the Speaker's office requesting supplemental
16 appropriations from the General Revenue Fund in the
17 amount of \$250,000. This is if we do not get the
18 grant.

19 Now I will switch to the legislative
20 update. This past Monday we had our first hearing
21 before Senate Finance. The hearing did go smoothly.
22 The Senators did ask questions about our budget and the
23 cash flow shortfall. They also asked questions
24 regarding the state of the industry and what other
25 states have in regard to forms of wagering and gaming.

1 We have been asked to provide some additional
2 information which we are in the process of getting
3 together and will provide to the requesters shortly.

4 We are scheduled to appear before House
5 Appropriations tomorrow morning and will be in the
6 subcommittee on business and economic development. We
7 are also scheduled to appear before House committee on
8 licensing and administrative procedures. That is also
9 tomorrow.

10 Last you will find, under Tab III-25, the
11 Racing Commission's legislative proposals for method of
12 finance. As you are aware, the Texas Racing Act
13 requires the Commission to deposit the money it
14 collects from pari-mutuel fees and wagering revenue
15 into a dedicated general revenue account. The act also
16 requires the comptroller to deposit the State's share
17 of the pari-mutuel tax into the General Revenue Fund.

18 The agency has four options of -- four
19 alternative approaches for the Commission's method of
20 finance. First, the general revenue. The Legislature
21 could fund the agency through general revenue funding.
22 The agency would still continue to collect fees to
23 cover its operational expenses.

24 Number two, the interest rate. The Texas
25 Racing Act, Section 3.09(b), requires the Commission to

1 reimburse the General Revenue Fund for any monies
2 loaned at a rate of 6.34 percent. The Legislature
3 could remove this requirement for the Racing Commission
4 and remove it from the Racing Act.

5 The State's share of the pari-mutuel pool
6 or the State wagering tax. The Texas Racing Act,
7 Section 3.09(a), requires the comptroller to deposit
8 the State's share of each pari-mutuel pool in the
9 General Revenue Fund. The annual revenue generated
10 from this source is approximately four million
11 dollars. If the State's portion was deposited into the
12 Racing Commission fund, the funds would provide a
13 reliable reserve that the agency could draw upon to
14 assist in our cash flow issues. The agency would
15 return the equivalent amount of cash upon collection
16 from its standard revenue sources.

17 And then fourth, the ATB fees -- ATM
18 fees. Excuse me. There is a one-dollar fee that is
19 assessed on each transaction at an ATM located at
20 racetracks. These monies go to the General Revenue
21 Fund per the Texas Racing Act, Section 11.04. The
22 annual revenue generated from this fee is approximately
23 \$200,000. The House licensing and administrative
24 procedures committee report to the 81st Legislature
25 recommends that these funds be dedicated to the Texas

1 Racing Commission.

2 With that, I'll be happy to answer any
3 questions.

4 CHAIRMAN PABLOS: Any questions,
5 clarifying questions of Shelley?

6 Commissioner Sowell, do you have any
7 comments on this particular item?

8 COMMISSIONER SOWELL: Yes, I do. Once
9 again, it's important to place us where we actually
10 are, not where somebody might think we are. But the
11 fact is that without accusing anybody of any ulterior
12 motive, historically and today, with all the paper that
13 we're looking at, the State -- aside from the 250,000
14 and anything else that might come up, but the point is
15 the theory of the State is still based on the fact that
16 they supply us no money other than as some emergency
17 thing that they might do now, but they supply no money
18 but they're -- for us, but they're happy to take the
19 money that we could keep that we earn, so to speak,
20 with the operation of the tracks or what else. There
21 may be a number of those situations.

22 But to my way of thinking, we ought to
23 recommend that that concept be given scrutiny by the
24 Legislature and, if nothing else, at least they should
25 give us an opportunity to grab onto some, if not all,

1 of the money that we earn through our efforts at the
2 tracks and, you know, allowed to keep that to help us
3 in the situation we find ourselves in.

4 CHAIRMAN PABLOS: Good. Thank you.

5 Mark, is there anyone signed up to speak
6 on this item?

7 MR. FENNER: No, sir.

8 CHAIRMAN PABLOS: Okay. Well, at this
9 time we've got -- I'll entertain a motion to approve
10 the request for a supplemental appropriation for
11 submission to the Governor, Lieutenant Governor, and
12 Speaker of the House. I'll take this item up first.
13 Do I have a motion?

14 COMMISSIONER SOWELL: So move.

15 CHAIRMAN PABLOS: A motion by Sowell.

16 COMMISSIONER EDERER: Second.

17 CHAIRMAN PABLOS: Seconded by Ederer.

18 Okay. Is there any discussion on this
19 item from the Commission?

20 Okay. Well, then at this time I'll take
21 a vote. All those in favor please signify by saying
22 aye.

23 COMMISSIONERS: Aye.

24 CHAIRMAN PABLOS: Any opposed?

25 That motion carries.

1 Our next motion I'd like to entertain is
2 to approve the proposals to the Legislature for
3 alternative methods of finance as described on page
4 III-25 of the packet. Do I have a motion?

5 COMMISSIONER SOWELL: So move.

6 CHAIRMAN PABLOS: Moved by Sowell.

7 Second?

8 COMMISSIONER ADAMS: Second.

9 CHAIRMAN PABLOS: Seconded by Adams.

10 Any comments?

11 Okay. At this time I'd like to take a
12 vote. All those in favor please signify by saying
13 aye.

14 COMMISSIONERS: Aye.

15 CHAIRMAN PABLOS: Any opposed?

16 That motion carries. Thank you very
17 much.

18 Item III-F, committee on racetrack
19 licensing update. At this time I'll recognize
20 Commissioner Schmidt.

21 COMMISSIONER SCHMIDT: Thank you,
22 Mr. Chairman.

23 Submitted in your packet is the Texas
24 Racing Commission committee on racetrack licensing
25 report for your review. Our committee met on three

1 occasions in Austin and we also met via conference
2 calls on multiple occasions.

3 A couple of comments. First of all, we
4 were charged to perform this report during December and
5 January; and both Chairman Clowe and myself would like
6 to thank Mrs. King, Mr. Fenner, and the entire agency
7 staff for their diligence in assisting us, A, during
8 the Christmas holidays and, B, during the month of
9 January and February when they were also distracted
10 with multiple financial issues which we have just
11 discussed. So we are very indebted for the efforts
12 they made and the demands we placed on their time.
13 They were always agreeable and very, very helpful.

14 There's a couple of things I'd like to
15 call your attention to. The report is divided into
16 three sections which you can review. I wanted to make
17 clear, when reviewing this information, that the Texas
18 Racing Commission subcommittee certainly supports the
19 sunset recommendations on racetrack licensing. The
20 significance of these recommendations are listed in the
21 very first part of this report. They are significant,
22 and I want to call your attention to them. Secondly,
23 what we tried to do is identify policy issues by the
24 committee. And they're listed in Part 2. And then an
25 inventory of racetrack-specific problems and issues.

1 What the subcommittee really identified
2 was that we did this as an inventory, not to single out
3 any group or subgroup. This is an inventory of the
4 types of problems that Commissioners face in dealing
5 with licensing issues. We found, and agree with the
6 sunset report, that the Texas Racing Act in some cases
7 addresses some of these issues inadequately, in other
8 cases does not address them at all, in other cases
9 perhaps the intention of the act no longer is
10 applicable in today's marketplace.

11 So this report is for your review and
12 we'll take further direction from the Commissioners as
13 indicated.

14 CHAIRMAN PABLOS: Thank you.

15 Commissioner Clowe, do you have any
16 comments today?

17 MR. CLOWE: No. Commissioner Schmidt has
18 covered it fully. Thank you.

19 CHAIRMAN PABLOS: Thank you.

20 Well, I'd like to thank the both of you
21 and staff for taking on this challenge. The purpose
22 was really to survey the landscape of these policy
23 issues. I think we've identified them very clearly.
24 We've put them on the table. We've received public
25 input. And so now at this time I'd like to relieve you

1 of your duties.

2 I thank you very much. We now have the
3 information we need to move forward. And when the time
4 comes to consider each item, I can assure you that
5 there will be plenty of opportunity for public
6 comment. We are very eager to ensure that there's
7 transparency in the process, as always, and also to
8 make sure that everybody understands where the
9 situation really is. And now that you've done that, I
10 thank you for that. Appreciate it.

11 The next item, III-G, stakeholders'
12 report on status of the industry. At this time I'd
13 like to recognize Bryan Brown with Retama Park.

14 Good morning, Bryan.

15 MR. BROWN: Good morning, Commissioners.
16 I'm Bryan Brown with Retama Park.

17 The purpose of me visiting with you today
18 is to give you quite a bit of information, which a lot
19 you've heard over time, and hopefully what I'm going to
20 provide you consolidates a lot of the bad news and some
21 of the good news that you've heard over time. And I
22 believe you have the report.

23 Has that been handed to the
24 Commissioners?

25 First of all, I'd like to say the report

1 was a result of a lot of work by many, many people.
2 Dave Hooper provided Thoroughbred statistics; Rob
3 Werstler, Quarter Horse breeding statistics. Tommy
4 Azopardi and Wanda O'Banan provided the horsemen THP
5 statistics. Andrea Young and Drew Shubeck provided
6 statistics from Lone Star Park and for Sam Houston Race
7 Park. And I should add our CFO, Lisa Medrano, provided
8 Retama Park numbers.

9 This report kind of takes you through the
10 situation that exists now in the industry overall and
11 with specifics on the horsemen, breeding, what's going
12 on with racetracks, and then offers some positive
13 opportunities that the industry has.

14 Just to start out, from the horsemen's
15 standpoint -- and, you know, these numbers kind of
16 staggered me when I saw them. Membership in the Texas
17 Horsemen's Partnership has declined from 4614 people in
18 2007 to 3325 people in 2008.

19 As a horse owner or trainer starts a
20 horse, they are automatically -- they automatically
21 become members of the Texas Horsemen's Partnership. So
22 there's no fee base to this. It's just a product of
23 who races and who trains. This is just a dramatic --
24 obviously a dramatic drop in the number of members that
25 the THP has.

1 In addition, the number of licensees that
2 the Texas Racing Commission has licensed has dropped
3 from 7842 people in 2004 to 6379 people in 2008. And
4 that's a drop of 19 percent. And that not only affects
5 the people that we have out in the industry that
6 participate and salaries and the economic benefits that
7 accrue to that, but it also affects the Commission. I
8 mean, their revenue, your revenue, drops as there are
9 fewer licensees.

10 From the standpoint of breeding, a total
11 of 1602 Quarter Horses in Texas were accredited in
12 2005; and in 2009 -- in 2008, excuse me, 1179 were
13 accredited. And that's a 26 percent drop. The number
14 of Quarter Horse broodmares dropped from 462 in 2005 to
15 327 in 2007. And that's a 29 percent decrease.

16 An interesting thing that happened in
17 2008, that number increased to 433 as people saw the
18 possible opportunities of bringing a broodmare to
19 Texas, hopefully having some good things happen for the
20 industry, and when those broodmares produce foals, the
21 foals then get the advantage of what might happen in
22 Texas.

23 The number of Quarter Horse stallions
24 peaked at 52 in 2005 and dropped to 35 in 2008. Most
25 of the statistics there come from the peak year of --

1 2005 should be the peak year in each of those cases.

2 On the Thoroughbred side, the number of
3 stallions standing in Texas has decreased from 438 in
4 2001 to 197 in 2008. So that's almost a drop of
5 half -- or more than -- excuse me, more than a drop of
6 half. My math is bad.

7 The number of mares bred dropped from
8 3640 in 2001 to an estimated 1900 in 2008. I say
9 estimated. The statistics are clear through September
10 through the Jockey Club, and then estimates were made
11 as to what happened the rest of the year.

12 The State of Texas has fallen from the
13 third ranked state in terms of mares bred to the fifth
14 ranked state in the nation. Registered foals have
15 declined from 1988 in 2001 to 1160 in 2008. And again,
16 the State of Texas fell from the fourth ranked state in
17 terms of foal production to the sixth ranked state.

18 Now, on the other hand, we looked at
19 what's happened in Louisiana where there's a surge in
20 mares bred, from 2221 in 2001 to about 3900 in 2008.
21 So Louisiana used to have about 70 percent of the
22 breeding activity of Texas and now it's nearly double
23 the breeding activity in Texas on the Thoroughbred
24 side.

25 Also, breeding activity in New Mexico has

1 picked up quite a bit and it's grown to an estimated
2 thousand foals in 2008, whereas the number of foals in
3 2001 was 549, improving their state ranking from
4 thirteenth to seventh.

5 I am going to get to the good news sooner
6 or later.

7 CHAIRMAN PABLOS: I was going to say.

8 MR. BROWN: On the racetrack side, the
9 biggest number that I did not put on here but that
10 really sticks out, total handle of all the racetracks
11 dropped 74 million dollars in last year alone, in 2008
12 alone.

13 At the three Class 1 tracks, our total
14 revenues peaked at 129 million in two thousand --
15 excuse me, in 1999, and it totaled 93 million in 2008,
16 which is a decrease of 35 million. So again, we're not
17 expending -- we're not able to take capture revenue and
18 expend it in ways that help the economy, much less pay
19 our bills the way we would like.

20 Expenditures in the 1999 peak year
21 totaled 110 million versus 96 million in 2008. And
22 EBITDA, which is earnings before interest, taxes,
23 depreciation, and amortization, dropped from a positive
24 18.9 million in 1999 to a loss of 2.6 million in 2008.
25 That does not count the debt service that we all have

1 in one form or another.

2 The number of race days dropped from 363
3 in 2000 and there's 265 granted in 2009.

4 There's other additional concerns that
5 obviously relate to all this. The continued viability
6 of the breed associations, really the racing side of
7 the breed associations, that's certainly in question
8 and becoming tougher and tougher every day as the breed
9 associations make changes, lay off staff, make other
10 adjustments that aren't positive for their members but
11 have to be done at the same time.

12 There's a question of whether there's
13 sufficient numbers of Texas-bred horses to run the two
14 horses per day that we would like to fill in the
15 future. There could be further track closures in
16 addition to Corpus Christi Greyhound that cause a
17 ripple effect on our industry and certainly on the
18 Commission as well and then the potential to fall
19 further behind with technological advances that we
20 can't take advantage of because of the restrictions
21 under the Texas Racing Act.

22 And the final one is time is running
23 out. I mean, we've all talked about all this stuff.
24 You hear it from time to time. But I can just tell you
25 from speaking with everybody that I spoke to to put

1 this together, time is clearly running out. We
2 don't -- we can't continue on as an industry and face
3 all these issues and not have something change.

4 Well, now the good news. The good news
5 is, which in part is a negative, in part a positive,
6 there is an estimate that there's 50 to a hundred
7 million dollars of online wagering, advance deposit
8 wagering, going on right now in the state. And that's
9 bad news because we can't participate in that. We're
10 not allowed to do that. In fact, one of our racetrack
11 owners, Magna Entertainment, had to agree to drop all
12 its Texas clients when it acquired Lone Star Park.

13 The other ADW's, advance deposit wagering
14 sites, don't have that same restriction. They are in
15 our backyards. We have customers come to us all the
16 time, every one of us do, and talk about how well they
17 did on their YouBet account or other account and talk
18 about rebates and talk about things that we can't even
19 think about. So that's a potential market that we
20 don't have.

21 There's 2.4 billion in gaming that's been
22 attributed to Texans in a seven-state region, including
23 Nevada, so the states surrounding us plus Arizona,
24 Colorado, and Nevada. Of that amount, two billion is
25 in the nearby states and 1.7 billion is attributable to

1 the immediately surrounding states. So Texans are
2 taking their dollars and they're going to other states
3 to the tune of 1.7 billion.

4 In addition to that, 52 cents of every
5 dollar -- and this is obviously an estimate, but
6 probably a pretty good one. 52 cents of every dollar
7 that's gambled also is spent in tourism-related goods
8 and services. So those economies not only get the
9 benefit of people coming and gaming. They get the
10 benefit of the hotel stays, the restaurant visits, gas
11 station visits, and everything else that relates to
12 that person heading across our borders.

13 In addition, by most accounts, there is
14 somewhere around 150,000 illegal gaming machines in
15 Texas. Again, something we certainly can't do, could
16 never even think about doing because of how regulated
17 we are. There's no benefit that comes from those
18 machines that would come from activity at the
19 racetrack. There's no horse racing. There's no
20 purses. There's no breeding. It's just pure illegal
21 gaming and usually with dark windows and what's called
22 the knock-knock entry system.

23 If there is to be state-regulated legal
24 gaming or additional state-regulated legal gaming, we
25 believe that in almost every measure that's going to be

1 looked at, there will be money that will be provided to
2 combat that illegal gaming; and in addition to that,
3 the state-regulated gaming, we believe, will be much
4 more popular and virtually knock out the illegal gaming
5 that's going on right now.

6 The vast majority of Texans, 82 percent,
7 in a poll that just came out on Monday, favor having
8 the Legislature allow Texans to make a choice; and that
9 choice would be whether or not racetracks should be --
10 racetracks and Native American reservations should be
11 allowed to have additional gaming opportunities.

12 It's not only 82 percent of Texans. It's
13 every major segment that was studied. It doesn't
14 matter how often someone attends church. It doesn't
15 matter their ethnic background, economic background.
16 All groups favor letting Texans decide this issue.

17 Based on an economic study that was
18 prepared, Texas can add 53,000 new permanent jobs, 6.8
19 billion in annual economic activity, and nearly two
20 billion in biennial tax revenue by simply allowing slot
21 machines at horse and greyhound racetracks and
22 recognized Native American reservations.

23 Further good news. And this has not come
24 easy. This has required a lot of work, a lot of
25 cooperation, and a lot of trust. All segments of the

1 racing industry are united in efforts to realize the
2 potential of the industry and are in agreement that
3 good-for-Texas provisions must be included in any
4 initiative -- any legislative initiative that we take
5 part in.

6 And those good-for-Texas provisions
7 extend to the performance horse side of things, drug
8 testing, benefits to backside workers, medical care, a
9 number of issues that help those that are not owners of
10 racetracks, not owners of racing horses, and not
11 trainers of racing horses.

12 In addition, we all believe, and believe
13 very strongly, by leveling the playing field with our
14 neighboring states, the racing industry in Texas will
15 be, without question, the best in the country.

16 So again, my point here is to feed you
17 with some facts and information and you've probably
18 heard most of this over time. Hopefully you can take
19 this and, if you get questions from others, regardless
20 of who it is, you're a little bit better armed to
21 answer those questions.

22 And the other purpose is just, again, to
23 let you know time is running out. I know you can't
24 enact legislation up here. I wish you could. But time
25 is running out for this industry. And there's no one

1 segment that's left out of that statement, I don't
2 believe.

3 So I'd be happy to answer any questions
4 that you have.

5 CHAIRMAN PABLOS: Thank you, Bryan.
6 We're certainly empathetic. You know, we feel the pain
7 just as much as you do sometimes here with our funding
8 model. This is really good information. It will come
9 in handy. You have your work cut out for you, though,
10 to disseminate it at the capitol and make sure that the
11 folks are hearing what you have to say.

12 MR. BROWN: Right.

13 CHAIRMAN PABLOS: Are there any questions
14 of Bryan?

15 VICE-CHAIRMAN CARTER: I have one,
16 Bryan.

17 MR. BROWN: Yes, sir.

18 VICE-CHAIRMAN CARTER: Under your
19 additional concerns, the second to the last bullet
20 point --

21 MR. BROWN: Yes.

22 VICE-CHAIRMAN CARTER: -- what do you
23 mean -- explain that to me, would you, please?

24 MR. BROWN: Well, the clear obvious one
25 is advance deposit wagering, Internet wagering. The

1 ones beyond that we don't even know. But there's
2 always technological advances. Someone might, and
3 probably can, bet from their car, you know, as an
4 example. We would never be able to take advantage of
5 that. So a lot of what's included in that point are
6 things that we don't even know about; but the major one
7 right now is Internet wagering, which used to be phone
8 betting. Phone betting evolved into Internet
9 wagering.

10 VICE-CHAIRMAN CARTER: Thank you.

11 CHAIRMAN PABLOS: Any other questions?

12 Thank you, Bryan.

13 MR. BROWN: Thank you all for allowing me
14 to speak. I appreciate it.

15 CHAIRMAN PABLOS: Thank you, Bryan, for
16 coming out.

17 Diane Whiteley?

18 Good morning.

19 MS. WHITELEY: Good morning,
20 Commissioners. Bryan asked me a little bit late
21 yesterday to pull together some numbers on the
22 greyhound industry and I always appreciate the
23 opportunity to talk about the greyhounds.

24 I knew that our industry was in decline.
25 Every year since I've started with the Texas Greyhound

1 Association, which is 2004, I've seen a steady decline
2 of 10 percent, 12 percent on the numbers; but I looked
3 through, for this, the annual racing reports from the
4 Texas Racing Commission from 1990. Jean Cook had sent
5 me these a year ago and I finally went through them
6 last night and the numbers are just staggering when you
7 look at it from the total perspective of since racing
8 started.

9 Two tracks were opened -- two greyhound
10 tracks were opened in 1990, Corpus Christi and Valley
11 Race Park, both in November. Corpus Christi set a
12 daily attendance record on November 23rd, 1990, with
13 6,242 patrons at that racetrack. That number is huge.
14 Two years later, on February 28th, 1992, it set the
15 daily wagering record of 355,000 was wagered on our
16 greyhounds. In 1992 it also paid the State 1.2 million
17 dollars. So the promise of pari-mutuel was very much
18 in bloom then.

19 In 1992, it handled 64 million dollars
20 that year and it paid purses of 3.1 million. Compare
21 that to 2007, which was its last year of operations,
22 when it handled 11 and a half million, an 82 percent
23 decrease, and paid purses of one million, which was a
24 68 percent decrease.

25 Valley Race Park also opened in November

1 1990 and set its attendance record that same month with
2 4700 patrons. In 1991 it set a daily handle record of
3 327,000. Valley subsequently closed in 2006 and then
4 was finally reopened and now it's racing five months a
5 year.

6 The largest greyhound facility, which is
7 the flagship of greyhound racing in Texas, was Gulf
8 Greyhound. It opened in November of 1992. In July of
9 '93 it set a daily handle record of 1.4 million. That
10 is how huge that facility was and how many people it
11 could accommodate. And it set an attendance record in
12 January of '94 with 17,000 patrons. In '93 it paid out
13 13.4 million in purses and it handled 268 million in
14 '93. Compare that to 2007 when it handled 33 million,
15 an 88 percent decrease, and paid purses of 2.7 million,
16 which was an 80 percent decrease.

17 You can track the decline of all of our
18 tracks that started in the early '90's to slot machines
19 opening in Louisiana in '94 because never again would
20 they reach these kind of numbers from '93. And it's
21 been a steady erosion of the gaming patrons going to
22 surrounding states. Corpus Christi is now dark.
23 Valley Race Park only runs for five months. And Gulf
24 has just six racing performances a week.

25 Sammy Jackson prepared a Texas

1 pari-mutuel racing overview and compared Texas to the
2 three other major greyhound racing states, West
3 Virginia, Iowa, and Florida. Texas ranked fourth in
4 number of purses. The rank is not as important as the
5 money. In 2006 Texas paid out five million in purses
6 while West Virginia paid out 27 million, a difference
7 of 22 million dollars in purses. So even though we're
8 ranked fourth, the difference between the tracks is
9 tremendous.

10 The Texas Greyhound Association has also
11 reflected these drops. We have less than half of our
12 membership between 2004 and 2008. The number of
13 breeders dropped another 16 percent between 2007 and
14 2008. And the number of puppies registered as
15 Texas-bred dropped to an all-time low of 2,081 in
16 2008 -- in 2008, as did our membership. We're down to
17 245 members and two employees.

18 The difference between other -- between
19 Texas and the other greyhound tracks -- or the other
20 greyhound states is that the other states offer just
21 more choices. West Virginia has slot machines and
22 table games. Iowa has slot machines. Florida has card
23 rooms and has just authorized slot machines at certain
24 tracks. Arkansas has games of skill. And Alabama has
25 alternative gaming machines. While Louisiana was able

1 to add casino boats in 1994, Texas totally missed the
2 boat.

3 Probably the most ironic point in all of
4 that is Texas raises the highest quality of greyhounds
5 in the nation. At the two annual young greyhound
6 auctions held in Abilene, Kansas, every year, Texas
7 breeders consistently have the highest selling
8 greyhounds. One of the top kennels in West Virginia is
9 a Texas kennel. While we raise the best greyhounds and
10 have the top kennels, they don't run in Texas.

11 Texas has also taken a leadership role,
12 which I'm very proud of, in track safety. More so than
13 any other state, we have had a direct impact on safety
14 in the kennel area, safety on the racetrack surface.
15 So while we are sinking in our rankings, we do have
16 some just wonderful things to offer if we could just
17 get racing back on track.

18 The same positive steps that Bryan
19 mentioned would affect the greyhound racing. Advance
20 deposit wagering, which is a little bit annoying to me
21 because I'm in Waco, my dog is running at Gulf
22 Greyhound, and I can't make a wager on him. You know,
23 the IRS is probably the most regulatory body. The
24 Racing Commission regulates, but the IRS is probably
25 the most regulatory body. But even with the IRS you

1 can file your tax return online and yet I cannot wager
2 on a greyhound unless I'm there physically at the
3 greyhound racetrack.

4 So we are looking for good things this
5 legislative session. Our memberships are ready and
6 willing to make a commitment and to visit everyone and
7 to tell our story.

8 And if you have any questions for me, I'm
9 happy to answer them.

10 CHAIRMAN PABLOS: Thank you, Diane.

11 Any questions of Diane?

12 Thank you very much.

13 We'll move on to Item IV-A, a report by
14 Sam Houston racetrack on status of reconstruction.
15 Andrea Young of Sam Houston Race Park?

16 MS. YOUNG: Good morning, Commissioners.
17 The package or the letter that we submitted to you on
18 January the 20th is the most recent update. We gave
19 that before the last -- when we thought the meeting
20 would be earlier in the month, so I'm going to take
21 this opportunity to kind of update you on the month
22 since.

23 I'm happy to report we are absolutely on
24 schedule. We have only had six rain delay or missed
25 workdays on our -- during our project; and, you know,

1 you build that into your schedule all along that you
2 will have some of that; so the weather has been
3 favorable.

4 As of yesterday, the roof, which as you
5 all probably recall being the most significant project,
6 is 67 percent complete. We anticipate that project
7 wrapping up here towards the end of March. It is our
8 hope that shortly thereafter, probably within the week,
9 that we'll return our simulcast operations back into
10 the grandstand where they had been prior to the storm.

11 Simultaneously we're doing a lot of work
12 on the club level of the facility right now because we
13 are allowed to have access to it. We have not been
14 able to get access yet to the suite level because of
15 the crews and the roof panels being moved. So all of
16 that will start as soon as the roof project wraps up
17 and, you know, really is only -- it's mostly finish
18 work and it should take several weeks for us to do.

19 So we're here to report that we're
20 absolutely on schedule on here. We had talked -- I had
21 said that we were hoping to finalize some contracts in
22 our barn and stable area. All of that has been
23 completed and work is well under way. They're
24 Sheetrocking, you know, 20 rooms, dorm rooms, a week --
25 or a day, I'm sorry, this week. So you've got kind of

1 all the crews back there working on top of each other.
2 So we're real excited with the progress they're making,
3 very pleased with the progress we're making.

4 The last kind of significant update from
5 this last one is we did lose a lot of track surface
6 material during the storm and all of our new materials
7 that we've ordered will arrive on site March 16th and
8 we'll be reworking the track so it will be ready for
9 when training starts training and then subsequently
10 live racing returns on May 1st.

11 We will be into the Houston market as of
12 March 16th also. It's kind of a big day on our
13 calendar, with a full kind of reopening campaign, you
14 know, that we're very excited about. So people should
15 start hearing a lot about Sam Houston Race Park if you
16 live in Houston. And, you know, that's something we're
17 pretty excited about.

18 Any questions?

19 CHAIRMAN PABLOS: Any questions of
20 Ms. Young?

21 Thank you very much for all your
22 efforts. We certainly appreciate it.

23 MS. YOUNG: All right.

24 CHAIRMAN PABLOS: At this time we're
25 going to take up Items IV-B and C together, IV-B being

1 review of the inspection report, time line for facility
2 repairs, and business plan for reopening of Corpus
3 Christi Greyhound Track, Item IV-C being the allocation
4 of live race dates for Corpus Christi Greyhound
5 Racetrack under Commission Rule 303.41.

6 At this time I'd like to recognize
7 Commissioner Hicks.

8 COMMISSIONER HICKS: I would like to say
9 that I got to go on the inspection three different
10 times with our wonderful inspection team. I came on
11 this board last year and I have gone on five different
12 inspections and not at any cost to the Commission. I
13 have paid my own way because I was a novice and I
14 really wanted to see what was going on.

15 And if I had not gone to Gulf, to Sally's
16 operation, I really would not have known what to expect
17 at the other racetracks. I did go to Valley and I did
18 get to see what they had. And I've been at the Corpus
19 track three times. I was there in May and I saw a lot
20 of things that they were doing to the kennels and I saw
21 a lot of things that needed to be done.

22 So then I went with Chairman Pablos and
23 Rick took us through on an inspection and he also saw
24 some things that were being done. We just went in
25 February and I was very impressed with what had

1 happened since May.

2 There was a lot of work done to the
3 kennels. They had done the roofing. There is still a
4 lot of work that needs to be done. There's no air
5 conditioning. And they had done a lot of surface
6 work. The track still needs to be handled. There's
7 nothing been done there. The tote board is rotting.
8 But the grandstand, they had painted and cleaned some
9 carpet and redone a lot of that. So I was really
10 pleased that they're really trying.

11 There's still a lot of work that needs to
12 be done and I know that they're in the process of
13 trying to sell. Being a Corpus Christi resident, I
14 would love to see that track reopen. And when I heard
15 that Sally might be coming down to do some of the
16 management, I was thrilled after I saw the Gulf
17 facility. It is so clean, you can eat on the floor.
18 And she just had a hurricane. I'm telling you, it
19 was -- it's beautiful and she's done a good job. She's
20 still got some repairs to be done and insurance work to
21 be done.

22 But I really think that we can reopen the
23 Corpus track. The business plan I hope the
24 Commissioners got to look at. I think it's a workable
25 plan. I wish they were going to be doing live racing

1 in 2010 for more than two months so we could get some
2 of our dogs back here and get them racing more. But
3 the simulcast I think is a doable thing in September.
4 From what I looked at and what I saw, I think they will
5 definitely have that area ready.

6 Do you all have any questions?

7 CHAIRMAN PABLOS: Commissioner Hicks,
8 thank you very much. Thank you for taking such great
9 interest and traveling across the state to take a look
10 at the other tracks. I think that is very important,
11 especially when it comes to comparing the tracks and
12 what needs to be done at Corpus.

13 At this time I'd like to ask staff to
14 talk about the inspections. So would Carol Olewin
15 please come up, compliance audit administrator, and
16 tell us about the actual inspection findings, please?

17 MS. OLEWIN: Okay. This is going to be a
18 photo presentation of the inspection of Corpus Christi
19 Greyhound Track that was done on February 5th, 2009.
20 The racetrack was closed for business on December 31st,
21 2007, with the intention of reopening at a later date.

22 Commission staff was tasked with
23 inspecting the facilities to assess the progress of
24 repairs and condition of the grounds and facilities.
25 Staff members John Ferrara, Chuck Trout, Mike Gougler,

1 Johnny Whitley, and Carol Olewin conducted an
2 inspection of the facilities with racetrack
3 representative Rick Pimentel. Commissioner Hicks also
4 accompanied us on that walk-through.

5 The following is going to be photographs
6 taken during that inspection.

7 This is the main entrance to the
8 grandstand. A walk-through of the facility showed that
9 significant work had been done to clean up the
10 appearance of the facilities. The exterior of the
11 building has been power washed and the grounds were
12 neat and clean.

13 This is the public entranceway into the
14 grandstand. The area is neat and clean with fresh
15 paint and clean carpets. The air conditioning system
16 was working and the facilities smelled clean.

17 This is the area inside the grandstand
18 that shows the facility is clean. Water leaks have
19 been fixed. Ceiling tiles have been replaced. Walls
20 have been painted. Carpet has been cleaned. Air
21 conditioning was working. Televisions are in place.
22 And the facility appears ready for simulcast
23 operations.

24 The concession area is clean, freshly
25 painted. The carpet is clean and ready for

1 operations.

2 Restrooms were clean and operational.

3 The exterior of the grandstand building
4 has been power washed as well as the outdoor apron
5 seating area.

6 As we move outside to the racetrack area,
7 this is the tote board that is in need of repairs.
8 There is extensive wood rot that will need replacing
9 and fresh paint. Discussions with tote company
10 representatives indicated that the structural integrity
11 of the tote board was good. It just needs new siding.

12 The racetrack surface and associated
13 equipment, for example, starting boxes and lure
14 railing, will need repairs.

15 The track surface is deteriorating due to
16 the environment. The underlining pad is exposed in
17 some areas and will need repair or replacement. The
18 lure rail, which is on the left side of the photo, has
19 corrosion. Sand has drifted away from the curbing,
20 which is on the right side of the photo, and will
21 require regrading to achieve the proper grade. Some
22 wall pads have been replaced, but more work may be
23 needed before live racing begins. Escape area curtains
24 have been taken down to prevent further weather
25 deterioration.

1 The paddock area was clean and ready for
2 use. The trainers lounge, in the background, was clean
3 and air conditioning system leaks repaired. The
4 Commission's veterinarian office is through the door on
5 the right.

6 The lockout kennel is where the
7 greyhounds assemble before going to the paddock.
8 Latches on crates in the lockout kennels show
9 considerable corrosion and will need repair or
10 replacement.

11 This is the walkway from the kennel
12 compound to the lockout kennels. Racetrack management
13 has requested a waiver to the rule that requires a
14 covered walkway.

15 Now we move to the kennel compound area.
16 The grounds were neat and clean. The kennel
17 building -- kennel buildings have been cleaned and
18 painted. Weeds have been mowed. Abandoned vehicles
19 have been removed.

20 Turnout pens are adjacent to the kennel
21 building. Turnout pens will still need some repairs.
22 Fencing and gates will need replacement. Metal doors
23 between the kennel area and turnout pens will need
24 replacement.

25 Roofs have been repaired on all 18 kennel

1 buildings. New metal caps were installed on parapet
2 walls. Wooden trim around the kennels have been
3 replaced and painted. Rain gutters were in good
4 repair.

5 These are the crates inside the kennel
6 building. Crates are inspected for condition of doors,
7 hinges, latches, and casters. The crates in all the
8 kennels that were inspected were in good condition.

9 Air conditioning systems in all the
10 kennel buildings will have to be replaced.

11 The kitchen area inside the kennel
12 building was in good condition. The facility has been
13 power washed and had a fresh coat of paint.

14 These are the sprint paths that are used
15 to exercise the greyhounds. Fencing and gates will
16 have to be examined before they can be used.

17 To conclude the inspection observations,
18 significant work has been performed to clean up and
19 repair the grandstand building, the kennel compound
20 area, and the kennel buildings. Before live racing can
21 begin, more work will need to be done in the kennel
22 buildings and turnout pens. Sprint paths will have to
23 be renovated. Lockout kennels will need maintenance.
24 The track surface will need restoration. And track
25 equipment, like starting boxes, lure, escape curtains,

1 wall pads, and totalisator board, will still need
2 attention.

3 This concludes the inspection overview.

4 CHAIRMAN PABLOS: Thank you very much.
5 Thank you for that very thorough report. Thank you for
6 going out there. Those pictures are certainly very
7 helpful.

8 Now, are there any questions from the
9 Commission?

10 Thank you very much.

11 Now that we've heard from staff, I'd like
12 to invite a representative from the Corpus Christi
13 Racing Associates, Mr. Leon Reitnauer, to present to us
14 the business plan and their proposal for moving
15 forward.

16 Good morning.

17 MR. REITNAUER: Thank you,
18 Commissioners. My name is Leon Reitnauer, and I've
19 been involved with Corpus Christi track since before it
20 opened, prior to the licensing, the whole process, the
21 actual construction, and I've personally been involved
22 with the running of the place for the entire time since
23 then.

24 It was extremely disappointing for me to
25 have to close the track to begin with. Rick has done a

1 very, very good job at the facility, getting the
2 facility to the point where I think that we can reopen
3 on schedule with the dates that we've asked to be
4 granted and I think that we'll be successful in opening
5 with a limited schedule that will accomplish all of our
6 objectives substantially better than a year-round
7 racing schedule would have.

8 So I look forward to opening the facility
9 again. And I personally want to thank Ms. Hicks for
10 the time that she spent at the track and taking the
11 time to go to the track and actually see. I've been
12 going to Corpus Christi for 20 years and I would very,
13 very much like to get the track open as soon as we
14 can.

15 So with that said, I'd gladly answer any
16 questions that anyone has got.

17 CHAIRMAN PABLOS: Are there any questions
18 of Mr. Reitnauer?

19 VICE-CHAIRMAN CARTER: I have one.

20 CHAIRMAN PABLOS: Yes, Dr. Carter.

21 VICE-CHAIRMAN CARTER: I remember last
22 year you had come to us with a presentation. I think
23 your plan at that time was to start with simulcasting
24 initially and then use the money, the revenue generated
25 from that, to finish the rest of your repairs so that

1 you could offer live racing. Is that still your
2 intention?

3 MR. REITNAUER: Well, the primary
4 objective of starting with simulcasting is to build up
5 a purse fund that will supplement the live purses once
6 we start to operate and allow the kennel people to make
7 a fair and decent living there. So the primary purpose
8 is that.

9 Having people there, having operations
10 there, having the facility open and generating some
11 revenue and a staff of people that can do repairs and
12 cleaning and the like is going to speed things up. So
13 I anticipate the schedule is going to pick up pace here
14 once we open for simulcasting.

15 VICE-CHAIRMAN CARTER: Thank you.

16 CHAIRMAN PABLOS: Any other questions?

17 Well, I guess the issue in front of us is
18 multifaceted. One, we need to provide staff with
19 guidance regarding our feeling about the time frames,
20 the proposed time frames for repairing the facility.
21 From what I've seen here and since the time I've been
22 there, Rick, great progress. I mean, I can't believe
23 it. You guys have done a terrific job.

24 When Commissioner Hicks and I were out
25 there, Rick was out there painting himself; and so I

1 saw the commitment; and now, with this report, I'm
2 fairly confident that the progress that needed to be
3 made was being made. So with respect to that, I'm
4 confident. But I think staff needs some direction with
5 respect to our feeling on the time frames and also on
6 the business plan for reopening.

7 We're hearing that the owners are
8 confident that they will reopen within the allotted
9 schedule and so I wanted to see if anyone had any
10 comments regarding both the time frame for repairs and
11 for reopening for simulcasting.

12 Sammy Jackson will -- will you give us
13 your point of view, staff's point of view, with respect
14 to what is being presented, please?

15 MR. JACKSON: Thank you, Mr. Chair.
16 Thank you.

17 Staff has reviewed the business plan and
18 is satisfied with it that it meets the time lines that
19 was put before the Commission in August of this past
20 year as well as it's in sequence with the race date
21 request that they have submitted.

22 You were right on with asking of guidance
23 from you about your satisfaction with that time line
24 from the Commission's perspective, and the other issue
25 that we would like the opinion of the Commission is the

1 request for a waiver on the repair of the kennel
2 walkway.

3 We spoke to the TGA about it this past
4 week a little bit. They had an interesting comment.
5 And it might be appropriate to have Diane Whiteley come
6 forth and give her opinion on that because I think
7 that's who it impacts the most is the kennel trainers
8 and owners that work on the backside of that compound
9 area. We don't necessarily have a problem with that,
10 but we think getting their input on that would be
11 beneficial.

12 CHAIRMAN PABLOS: Okay. Well, Sammy,
13 let's address first -- I'd like to first take one item
14 at a time first.

15 MR. JACKSON: Yes, sir.

16 CHAIRMAN PABLOS: With respect to the
17 time frames for repairing the facility, what is your
18 recommendation? Are you comfortable with the time
19 frames being provided?

20 MR. JACKSON: Yes, sir, we are.

21 CHAIRMAN PABLOS: Okay. What about with
22 respect to the business plan for reopening? What is
23 your opinion on that?

24 MR. JACKSON: We recommend it.

25 CHAIRMAN PABLOS: You're okay with that.

1 Okay.

2 So now with respect to the waiver request
3 for the walkway, can you give us some background? And,
4 Mark, you might want to give us some background as well
5 with respect to the rules, as to what the rules say
6 with respect to walkways.

7 Do you need to catch up?

8 MR. FENNER: The relevant rule is Rule
9 309.310, Walkway. It's very short. It says "An
10 association shall provide a properly lighted covered
11 walkway with four feet of turf or a comparable material
12 on each side of the walkway from the kennel compound to
13 the lockout area." And in the case of Corpus Christi,
14 that is quite an extensive length. Judging from the
15 maps I have looked at, it's probably about 700 feet
16 long.

17 As to your options regarding a waiver,
18 you do have the authority to either grant a waiver or
19 you could agree to a deferred compliance to give them a
20 period of time in which they don't have to rebuild the
21 walkway but with an expectation that they come back in
22 the future and so that you would have an opportunity to
23 revisit the issue.

24 CHAIRMAN PABLOS: Okay. Thank you,
25 Mark.

1 Sammy, with respect to operational
2 procedures, what is the underlying purpose of having
3 this walkway? Is it to protect the dogs from inclement
4 weather? Or what is the real reason for having this
5 walkway?

6 MR. JACKSON: In my discussions with some
7 of the greyhound people, the real context for the
8 walkway is to provide a cover for the dogs to get them
9 out of the heat or the elements when walking from the
10 compound area over to the holding pens.

11 As I said, we spoke last week to
12 Ms. Whiteley about it. One of the comments that came
13 up was even though that the walkway was there, most of
14 the greyhound people were driving their dogs over via a
15 vehicle instead of walking them over.

16 I thought that was an interesting comment
17 that was made. Even though it was there, they were not
18 utilizing it, probably because of the length.

19 CHAIRMAN PABLOS: Of the length?

20 MR. JACKSON: Yes, sir.

21 CHAIRMAN PABLOS: Diane, would you -- do
22 you have any comments on this particular item, please?

23 MS. WHITELEY: I think when this rule was
24 initiated, it was anticipated that they would be
25 walking the dogs from the kennel compound up to the

1 lockout. But everyone has either a dog trailer or a
2 dog truck and the dogs are loaded right at the kennels
3 and driven up. And it is covered parking where the
4 dogs are unloaded, and that is our only concern is to
5 ensure that the cover is still good between where the
6 trucks park and walking to the paddock area. There is
7 an awning -- there is a cover there. But as far as
8 that long walkway, it's just not used.

9 CHAIRMAN PABLOS: Okay. Rick, or anyone
10 from Corpus Christi, have you obtained an estimate of
11 the cost of repairing this walkway?

12 MR. REITNAUER: We have. We have.

13 CHAIRMAN PABLOS: What would that be?

14 MR. REITNAUER: The estimate for the
15 walkway replacement is \$240,000. And in all the times
16 that I've been there -- and Rick can elaborate on
17 this -- the walkway doesn't get used. The parking
18 area, as Diane pointed out, gets used; and that's in
19 good condition. That's covered, lighted. There's no
20 problems with any of that.

21 So it's a section of the walkway that has
22 blown away here that we're really struggling with, and
23 that section of the walkway just doesn't get enough use
24 to justify the expenditure.

25 CHAIRMAN PABLOS: Absolutely.

1 Okay. Well, I guess we've heard from
2 Diane and she feels comfortable with that. It seems
3 that the walkway wasn't being used as it originally was
4 intended. It looks like you would have a tremendous
5 expense on your hands with regards to that.

6 Mark, what are our options with respect
7 to granting a waiver, maybe a temporary waiver, or --
8 you know, I wouldn't want to see anything that's
9 permanent at this time. I'd like to see first what
10 happens with the track. But, you know, tell us about
11 what it is that we can -- what kind of relief can we
12 offer Corpus Christi? Obviously the number one
13 objective here is to get them to start up simulcasting;
14 and if they can use that quarter of a million dollars
15 to go towards that right now, I think I would feel more
16 comfortable. But what would be some of our options,
17 Mark, please?

18 MR. FENNER: Well, you can either refuse
19 the request for the waiver. You could grant the waiver
20 without end and just basically permanently grant them
21 an exception to the rule. Or you could set a time
22 limit on it. For example, you could say one year. You
23 can have a deferred compliance for -- until the next
24 time you have to submit a live race date request, in
25 which case we want to revisit the issue.

1 So you have a number of options. You can
2 give a temporary waiver not to exceed a year with the
3 opportunity for the Commission to revisit the issue.

4 CHAIRMAN PABLOS: Okay. Is there anyone
5 else interested in commenting from the public on this
6 item?

7 Okay. Well, Commissioners, we have this
8 item in front of us. You've heard the situation. And
9 at this time I'd like to -- yes, Commissioner.

10 COMMISSIONER EDERER: I have a question
11 of Mark.

12 Mark, if we grant the waiver for a
13 year --

14 MR. FENNER: Yes, sir.

15 COMMISSIONER EDERER: -- are we then tied
16 to it? Do they then have to construct it? Or do we
17 revisit it and at that point in time, if we want to do
18 away with it, we can?

19 MR. FENNER: It's exactly that second
20 part. You would have an opportunity to revisit the
21 issue and then either extend the waiver or deferred
22 compliance again or you could --

23 COMMISSIONER EDERER: We're not locking
24 ourselves in, in other words.

25 MR. FENNER: No, sir.

1 CHAIRMAN PABLOS: Commissioner Sowell and
2 then Commissioner Schmidt.

3 COMMISSIONER SOWELL: Yes, Mr. Chairman.
4 To spend \$240,000 on something that's not going to be
5 used reminds me of some of my business decisions and I
6 certainly wouldn't want to pile that on top of the
7 Corpus folks to do the same thing.

8 My thought is that what we need to do is
9 do a waiver, a conditional waiver, at this time, let it
10 go for a year, and then we would take it up again and
11 review the situation. But my guess is that by then,
12 from what we've heard, it will be clear that it's not
13 needed and they can remove the remains of it.

14 CHAIRMAN PABLOS: Very well.

15 Commissioner Schmidt?

16 COMMISSIONER SCHMIDT: I just wanted to
17 clarify. A, I agree with Commissioner Sowell; and B,
18 if we grant a waiver, though, then this walkway is off
19 limits, right?

20 CHAIRMAN PABLOS: Good question.

21 COMMISSIONER SCHMIDT: It is closed? I
22 guess to me it looked a little unsteady. If one or two
23 people did bring their dog van --

24 MR. REITNAUER: One of the choices -- all
25 the paving is good in that whole area. It's a concrete

1 walkway. One of the choices would be to remove the
2 portions that have any sort of damage and leave the
3 remaining walkway there. I doubt that it's going to
4 get used anyway, but that would provide coverage for
5 probably better than half of the distance now.

6 COMMISSIONER SCHMIDT: I just had some
7 angst if it was a windy day and the roof was lifted up
8 or something.

9 MR. REITNAUER: Well, it's a fairly
10 substantial walkway. That's why it's so expensive.
11 It's not canvas. You know, it's the real McCoy. So --

12 COMMISSIONER SCHMIDT: We just need to
13 ensure a safe walkway.

14 CHAIRMAN PABLOS: From a structural
15 perspective is what he's talking about.

16 VICE-CHAIRMAN CARTER: Could I ask that
17 question a little differently? Is your current
18 intention to take down the cover? Is that what you're
19 planning on doing?

20 MR. REITNAUER: Well, what I would do is
21 remove the sections of the covered walkway that are in
22 any way damaged and leave the remainder of the walkway
23 in place because it's structurally fine.

24 VICE-CHAIRMAN CARTER: Okay.

25 CHAIRMAN PABLOS: Okay. So remove the

1 structurally unsound parts of the walkway.

2 MR. REITNAUER: Yes.

3 CHAIRMAN PABLOS: I wasn't able to see.

4 Is that possible without breaching the sound parts?

5 MR. REITNAUER: The first section is the
6 area that is bent and the awning is structurally
7 unsound. As soon as you get down to that next section
8 and all the way for the remainder of that run, it's not
9 damaged. So, you know, I can take the whole thing
10 down. I can leave the part that is still structurally
11 sound. That would probably cover two-thirds of the
12 walkway.

13 CHAIRMAN PABLOS: Okay. Okay. Thank
14 you.

15 Commissioners, at this time I'd like
16 to -- yes, Commissioner Clowe.

17 MR. CLOWE: I have two questions for
18 staff. Have such waivers been granted in the past in
19 regard to this type of situation?

20 MR. FENNER: Yes, sir, waivers have been
21 granted in the past. The most notable example of that
22 would be Manor Downs early on had an oval that was
23 smaller than the rule-required size. The Commission
24 granted a waiver for several years, five or six years,
25 and then stopped granting that waiver and required

1 Manor Downs to build the full-size oval.

2 MR. CLOWE: So there has been an
3 occurrence like this in the past. This would not
4 create a precedence but would create a practice that
5 has been ongoing to a certain extent.

6 MR. FENNER: Certainly it would validate
7 the prior example.

8 MR. CLOWE: Thank you.

9 CHAIRMAN PABLOS: Any other questions?
10 Mr. Archer, please.

11 MR. ARCHER: I guess I have two questions
12 actually. Is this rule -- is this rule tied directly
13 to a statute that requires a walkway to be built?

14 MR. FENNER: No, sir, there's no
15 statutory requirement for a walkway.

16 MR. ARCHER: Okay. Then the second part
17 of it is if we granted an exception or a waiver, would
18 it be possible in the next year or so to modify this
19 rule to give either the Commission staff or the Chair
20 the authority -- or the executive director the
21 authority to either recommend to the Commission that a
22 walkway be built or not?

23 MR. FENNER: Yes, sir, you could modify
24 the rule with that kind of flexibility.

25 MR. ARCHER: Thank you.

1 that we grant a waiver for a one-year period in order
2 to allow Corpus Christi to get back into operation
3 here, with the caveat that the staff and the rules
4 committee look into this and find out if, in fact, we
5 can't just change the rule and eliminate the need for
6 it going forward.

7 CHAIRMAN PABLOS: We have a motion. Do
8 we have a second on that motion?

9 COMMISSIONER SCHMIDT: Second.

10 COMMISSIONER HICKS: Yes.

11 CHAIRMAN PABLOS: Commissioner?

12 COMMISSIONER HICKS: I'll second.

13 CHAIRMAN PABLOS: Okay. Any further
14 discussion on this item?

15 Okay. Well, at this time I'll take a
16 vote. All those in favor please signify by saying
17 aye.

18 COMMISSIONERS: Aye.

19 CHAIRMAN PABLOS: Any opposed?

20 Okay. So that motion carries. The
21 waiver has been approved for a period not to exceed one
22 year.

23 The next item here is the request for
24 live race dates. Charla Ann, do you want to speak to
25 that a bit, please?

1 MS. KING: Yes, Mr. Chairman. The race
2 date request from Corpus Christi Racing Associates is
3 for 43 live race dates to begin on July 2nd, 2010, and
4 end on August 31st, 2010.

5 CHAIRMAN PABLOS: Sammy, do you have any
6 comments on this particular item?

7 MR. JACKSON: Staff is okay with it,
8 sir.

9 CHAIRMAN PABLOS: Okay. Is anyone signed
10 up for public comment on this, Mark? No?

11 Okay. Well, I'll then -- I'll invite
12 Commissioners to make a motion to grant Corpus Christi
13 Racing Associates its request for 43 live race dates to
14 begin July 2nd, 2010, and end on August 31st, 2010.

15 Do I have a motion?

16 COMMISSIONER SOWELL: So move,
17 Mr. Chairman.

18 COMMISSIONER ADAMS: Second.

19 CHAIRMAN PABLOS: Moved by Sowell,
20 seconded by -- I didn't hear -- okay. By Adams.

21 All those in favor please signify by
22 saying aye.

23 COMMISSIONERS: Aye.

24 CHAIRMAN PABLOS: Any opposed?

25 Okay. That motion carries.

1 Okay. Our next item -- let's see what we
2 have here. We'll look to our next item, which is Item
3 V-A, proceedings on rulemaking, discussion,
4 consideration, and possible action on the following
5 rules: V-A-1, proposal to adopt by emergency rule an
6 amendment to Section 309.8, Racetrack License Fees.

7 I'd like to recognize Mark Fenner,
8 please.

9 MR. FENNER: Commissioners, first I'd
10 like to make sure everyone has got the correct copy.
11 This is the version sent out subsequently by Jean
12 Cook. And it's a shorter version. On the second page
13 it does not have the reference to the outs replacement
14 fee. If you don't have the correct copies, please let
15 me know and we'll get you a copy.

16 Now, this is a proposal to adopt by
17 emergency rule an amendment to 309.8, Racetrack License
18 Fees. And I'd like to go a little bit about -- talk a
19 little bit about the emergency rules.

20 In order to adopt on an emergency basis a
21 rule, you have to show that there is imminent peril to
22 the public health, safety, or welfare. So in this
23 case, failure to adopt this rule which would require
24 payment of up to a hundred -- \$150,000 in fees, I want
25 to make sure everybody understands that failure to

1 adopt it could place into jeopardy the continued
2 operation of this agency.

3 The imminent to the public welfare is
4 that if the agency can't pay its staff that all racing
5 in Texas will come to an end, meaning there will be no
6 purses paid, there won't be any Texas-bred funds paid
7 out. This will threaten the livelihoods of the
8 industry, including the owners, breeders, trainers,
9 grooms, the kennelmen, the backside veterinarians, and
10 numerous other occupations who rely on racing.

11 When you adopt something by emergency
12 rule, it means that we are providing either shortened
13 or no notice to the public about the rule proposal.
14 And I do want to point out that in this case we have
15 provided some notice to the industry. In particular,
16 we gave actual notice and an opportunity to provide
17 comments through the working group on funding meeting.

18 This proposal was distributed in advance
19 of that meeting. Five of the six inactive licenses
20 that would be affected by this rule change were at that
21 meeting and the sixth inactive license had been briefed
22 individually in advance of the meeting by our deputy
23 director.

24 What this rule will do is it will
25 increase the fees on inactive licenses by \$25,000. In

1 addition, it will make \$25,000 of the payment due on
2 March 15th of this coming month. So they would have to
3 submit \$25,000. This will affect those -- there are
4 six inactive licenses it would affect. It would also
5 affect out years; so from FY 2010 out, there would just
6 be a onetime increased payment for each of those
7 racetracks.

8 Also, I do need to point out a slight
9 change in the materials. If you'll turn to page V-2 of
10 your materials of this revised one, on line two it says
11 "Beginning September 1, 2010, and thereafter". That
12 should actually be 2009. So we'll be making that
13 change here.

14 Do you have any questions?

15 CHAIRMAN PABLOS: Are there any questions
16 or clarifying comments or more questions of Mark,
17 please?

18 COMMISSIONER SOWELL: So this is actually
19 a double -- a double shotgun.

20 MR. FENNER: Yes, sir.

21 COMMISSIONER SOWELL: We do a temporary
22 and then we do a permanent.

23 MR. FENNER: That's right. An emergency
24 rule is only good for 120 days. So if we want to adopt
25 this rule on a permanent basis, we have to both adopt

1 it on an emergency basis and go ahead and adopt it on a
2 regular basis, which would mean voting to publish it in
3 the Texas Register, going through the comment period,
4 and then adopting at a subsequent meeting.

5 CHAIRMAN PABLOS: Commissioner Sowell, as
6 part of your duties with the funding committee, what is
7 your take on this proposal?

8 COMMISSIONER SOWELL: I think it's
9 imperative that we do it.

10 CHAIRMAN PABLOS: Okay.

11 COMMISSIONER SOWELL: We've got to have
12 some help someplace. Self-help is the best one.

13 CHAIRMAN PABLOS: Very well. Very well.

14 Any other comments or questions? Yes.

15 COMMISSIONER ADAMS: Mr. Chairman, I have
16 a question of -- I guess it's going back to determine.
17 And from what I understand, the hurricane is the major
18 factor in putting us into this condition. Is that
19 correct?

20 MR. FENNER: Let me let somebody else
21 answer.

22 MS. KING: I can address it or Sammy can
23 address it, either one. Your preference?

24 CHAIRMAN PABLOS: Charla Ann, would you
25 please address it? This is exactly what we talked

1 about in front of the Senate Finance Committee the
2 other day, so I think it's a very good question.
3 Charla Ann, if you'd please clarify what it is that is
4 affecting us and impacting us.

5 MS. KING: The hurricane is affecting us
6 significantly, but more significantly is the decrease
7 in the outs revenue from the outstanding tickets.
8 Okay? The projection for that income was not accurate
9 and we received 30 percent -- about 30 percent less in
10 outs revenue than had been anticipated. And I guess I
11 could make a couple of comments about that --

12 CHAIRMAN PABLOS: Please.

13 MS. KING: -- if that will be
14 appropriate, because I think we should clearly
15 acknowledge a few items about the issue, particularly
16 in regard to outstanding ticket revenue.

17 First of all, the agency has worked
18 diligently in its efforts to get the method of finance
19 for the regulation changed; and of course, this was
20 part of the sunset review process. And sunset
21 recognizes this and is assisting this problem at the
22 sunset bill and trying to get this changed so that we
23 are no longer reliant on outs revenue but completely
24 fee supported.

25 So it's been an issue for years and

1 we've -- and the agency has brought it to the attention
2 of the Commission, the Legislature, and the leadership,
3 everyone realizing at some point in time this would
4 happen. And it happens to be here now.

5 We almost made an orderly transition to
6 be supported by fee revenue last legislative session.
7 If you all recall, we had House Bill 2701 and we had
8 the transition in that bill. However, our efforts were
9 thwarted by the legislative process at the 11th hour
10 and the fix was not complete so we couldn't make the
11 orderly transition. So consequently today we're in the
12 position of having to take an emergency action to allow
13 racing to continue in Texas.

14 There is another issue I think that
15 should be addressed because there's been a lot of
16 discussion about the shortfall but also about the
17 reductions to come in the future and folks asking "Why
18 can't we just make more cuts now?" And this was
19 discussed at the working group and we've gotten those
20 questions since then.

21 And as we have discussed openly, the
22 staff is working on developing a reinvention of the
23 regulatory model based on five, 10, and 15 percent
24 reductions for the next biennium, not for this fiscal
25 year. Our shortage now is about this fiscal year and

1 getting through this fiscal year so that we can
2 reinvent the regulation.

3 However, the Commission needs to
4 understand that this will require a major substantive
5 discussion of regulatory policy. Staff is working on
6 developing the approaches, but we will need to bring
7 this discussion to the Commission. In the event of a
8 major reinvention, the rules and agency practice will
9 need to be significantly changed. This can't happen
10 overnight. The Commission is going to need time to
11 review the proposals for the reinvention and also work
12 with the industry so they can prepare for a new
13 approach, a new regulatory approach.

14 And in fact, the Senate Finance Committee
15 clearly understood this issue this week and it was laid
16 out fairly clearly by Senator Whitmire who stated that
17 there are major policy issues that need to be
18 considered regarding racing, not by the Senate Finance
19 Committee, but by the Legislature in general.

20 So the situation is a dire one. In part,
21 it's dire because of the leanness of the agency. The
22 agency has been decreasing its staff since 2002. In
23 fact, right now we are at our lowest level since 1996
24 with 64.3 FTE's. Many of the staff are handling
25 expanded duties, wearing multiple hats. In fact, we

1 should take this opportunity to thank the hardworking
2 staff for the long hours and the willing performance of
3 other duties as assigned.

4 However, the regulation of racing and the
5 fulfilling of the myriad of State agency requirements
6 cannot be done with just a handful of people. Our
7 statute requires strict regulation and we do not have
8 the choice to go into a state of noncompliance with
9 State law.

10 Commissioners, at this point we are
11 taking the necessary steps to address the situation.
12 You've heard the report from the working group and
13 comments by Mark in regard to the rule. The next major
14 milestone will be the second quarter outs payment that
15 is due no later than March 15th, so we will be looking
16 to see what the outs revenue will produce at that
17 time.

18 Discussions with the Governor's office on
19 the deficiency grant continues as of yesterday. And we
20 will be busy discussing these issues with the
21 Legislature as well starting again tomorrow. So we're
22 hopeful that by the next Commission meeting the picture
23 and the prospects will be clearer for your
24 consideration. And as always, we are open to input and
25 suggestions. We welcome your assistance in the coming

1 weeks.

2 CHAIRMAN PABLOS: Thank you, Charla Ann.

3 Are there any technical or clarifying
4 questions of Charla Ann at this time?

5 COMMISSIONER ADAMS: Yeah. If I might
6 continue --

7 CHAIRMAN PABLOS: Yes, Commissioner
8 Adams, please.

9 COMMISSIONER ADAMS: If I might continue
10 with Charla Ann.

11 MS. KING: Yes, sir.

12 COMMISSIONER ADAMS: The total amount of
13 the anticipated shortfall, I think I read 600 --
14 600,000?

15 MS. KING: \$675,000, yes, sir.

16 COMMISSIONER ADAMS: And what portion of
17 that can we attribute to the hurricane and what
18 portion -- you said a larger portion was attributed to
19 the lack of the outs, but --

20 MS. KING: Sammy may need to pitch in
21 with this. But the hurricane shortfall came to about
22 \$70,000.

23 COMMISSIONER ADAMS: So it's very minor.
24 Okay. No problem.

25 CHAIRMAN PABLOS: Okay. At this time

1 I -- thank you, Charla Ann.

2 I have one person signed up to speak, Ann
3 O'Connell with Comptroller Susan Combs' office,
4 please.

5 Good afternoon, Ms. O'Connell.

6 MR. ANDERSON: Good afternoon,
7 Commissioners. My name is Ann O'Connell. I'm employed
8 as the special counsel to Comptroller Susan Combs.
9 Comptroller Combs asked me to come today to relay her
10 comments to you, comments on the issue of inactive fee
11 increases to be imposed on an emergency basis.

12 The comptroller opposes the passage of
13 this rule on an emergency basis. She is concerned,
14 first, that the fee increase is too high. She is
15 concerned that the case has not been fully made to show
16 that an emergency exists that would warrant emergency
17 and immediate action.

18 Specifically, she is aware that \$137,000
19 of cuts has been made by the Commission to their
20 budget. However, she believes that she does not have
21 all the information to know whether further cuts could
22 be made which would allow the Commission not to have to
23 make this emergency action.

24 The comptroller is more than willing to
25 help the Commission through this situation, and the

1 comptroller has extended an offer to staff and to the
2 Commission to lend our budget staff to you as a
3 resource to work through the current state of affairs.

4 The comptroller does not object to this
5 rule being proposed for public comment, but she does
6 object to its passage today on an emergency basis and
7 on that issue her vote is no.

8 Thank you.

9 CHAIRMAN PABLOS: Thank you very much.

10 Are there any questions of
11 Ms. O'Connell?

12 Hearing none, thank you very much.

13 At this time is anyone else signed up to
14 speak on this item?

15 Okay. At this time --

16 COMMISSIONER SOWELL: Mr. Chairman?

17 CHAIRMAN PABLOS: Yes, sir.

18 COMMISSIONER SOWELL: One thing I would
19 like to mention. That is, our recent working group
20 discussed this at great length; and present at that
21 event were, I believe, all of the inactive tracks. And
22 I think -- and the only one that objected to this was
23 Corpus Christi Greyhound. Everybody else, by their
24 silence, I assumed approved it.

25 CHAIRMAN PABLOS: Thank you for that bit

1 of information.

2 Commissioner Clowe?

3 MR. CLOWE: If this were passed, what
4 would be the consequences if an inactive license holder
5 determined they could not pay this amount?

6 MR. FENNER: An inactive license holder
7 who did not pay would create the grounds for revocation
8 of their license. We would consider referring that
9 license to the State Office of Administrative Hearings
10 for an evidentiary hearing and then bringing it to the
11 Commission for action.

12 I also wanted to address one other item
13 about the emergency basis of the adoption. If we were
14 to only go with the regular proposal and plan for
15 adoption, the earliest regularly scheduled meeting at
16 which this would be eligible for adoption would be the
17 June meeting which would be past the crisis point for
18 us.

19 COMMISSIONER SOWELL: It's now or never,
20 right, Counsel?

21 MR. FENNER: Yes, sir.

22 MR. CLOWE: Well -- pardon me.

23 CHAIRMAN PABLOS: Go ahead, Commissioner
24 Clowe.

25 MR. CLOWE: If the Commission did not

1 adopt this emergency rule, could not the rule be
2 published and then another meeting of the Commission
3 called at the appropriate date?

4 MR. FENNER: Because of the lapse of time
5 it takes to not only have your 30 days of public
6 comment but then two weeks of -- or the amount of time
7 it takes to get into the Texas Register -- that's
8 basically a minimum -- you're looking at a two-month
9 period of time at the earliest at which we would be
10 able to have a regularly -- a called meeting, which is
11 pushing us past the crisis point.

12 MR. CLOWE: What's the crisis date?

13 MR. FENNER: We have -- the problem is
14 whether we're going to meet payroll on May 1.

15 COMMISSIONER EDERER: I have a comment.
16 All of the track owners -- I mean, excuse me, all of
17 the licensees are aware of this? Of the increase?

18 MR. FENNER: Yes.

19 COMMISSIONER EDERER: Has anybody said
20 they're not going to pay it?

21 MS. KING: No.

22 COMMISSIONER EDERER: Nobody has said
23 they're not going to pay it? I think that answers the
24 question.

25 CHAIRMAN PABLOS: Any other -- yes,

1 Commissioner Schmidt.

2 COMMISSIONER SCHMIDT: I just had a
3 question for Mrs. King. I just wanted to clarify.
4 This was brought about by the decrease in payments from
5 out tickets, correct?

6 MS. KING: That's correct.

7 COMMISSIONER SCHMIDT: Which we think is
8 secondary to the fact that just the total handle in
9 this state has decreased?

10 MS. KING: Yes. That contributes to it,
11 too. It's almost like a perfect storm of these things
12 occurring together.

13 COMMISSIONER SCHMIDT: So is it a
14 rational assumption that, in fact, as we go forward, we
15 can anticipate further decreases in outs?

16 MS. KING: That's exactly right. This is
17 just the beginning of the problem and looking for ways
18 to resolve it.

19 COMMISSIONER ADAMS: Mr. Chairman, if I
20 might, I very much appreciate the comments that
21 Comptroller Combs has sent us and I understand full
22 well the position she finds herself in. And on one
23 side, I agree with her from a fiscal standpoint, but --
24 and I thank her for the offering of the staff, but I
25 just don't think that additional staff time from what I

1 hear that has already been spent here is going to help
2 a whole lot. I don't think there's going to be any
3 miraculous discovery of a lot of money here by spending
4 more staff time trying to look at the issue.

5 So with that, with that said, I think in
6 my particular instance I feel like we have no choice
7 but to proceed with some kind of an assessment.

8 CHAIRMAN PABLOS: Thank you.

9 Any other questions or comments?

10 Okay. At this time what I'd like to do
11 is I'd like to entertain a motion to adopt on an
12 emergency basis the amendment to Rule 309.8, Racetrack
13 License Fees.

14 COMMISSIONER EDERER: So move.

15 CHAIRMAN PABLOS: Moved by Ederer. Do I
16 have a second?

17 COMMISSIONER SOWELL: Second.

18 CHAIRMAN PABLOS: Seconded by Sowell.

19 Are there any additional comments from
20 the Commissioners?

21 Hearing no comments, at this time I'd
22 like to bring this item to a vote. All those in favor
23 please signify by saying aye.

24 COMMISSIONERS: Aye.

25 CHAIRMAN PABLOS: Any opposed?

1 MR. ARCHER: No.

2 MR. CLOWE: No.

3 CHAIRMAN PABLOS: We have Archer no and
4 Clowe no. The motion carries.

5 Okay. At this time -- let's see. I'd
6 like to -- for us to take a break, a 10-minute break.
7 That way we can take care of personal items. And we'll
8 reconvene in 10 minutes, please, so that we can move
9 forward on Item V-A-2.

10 (Recess from 12:12 p.m. to 12:21 p.m.)

11 CHAIRMAN PABLOS: Okay. I'd like to
12 reconvene our meeting, please. Okay. I'll call this
13 meeting back to order at this time.

14 At this time we're considering Item
15 V-A-2, proposal to amend Section 309.8, Racetrack
16 License Fees. Mark Fenner, please.

17 MR. FENNER: Commissioners, this -- first
18 of all, I'd like to start off by saying the next
19 several items, which are the rule proposals, it is my
20 belief that if these are adopted for proposal and
21 publication in the Texas Register that they would then
22 be also referred to the rules committee who would
23 review them during the public comment period and take
24 that opportunity to take public input through a
25 hearing.

1 CHAIRMAN PABLOS: That is correct, Mark.

2 Thank you.

3 MR. FENNER: Very good.

4 This proposal, 309.8, is the exact same
5 one that you just voted to adopt on an emergency
6 basis. An emergency rule is only valid for 120 days;
7 so in order to make this a permanent part of our rules,
8 we'll need to publish it in the Texas Register for
9 public comment. As a reminder, this would have the
10 edit on the second page changing it from 2010 to 2009.

11 CHAIRMAN PABLOS: Thank you, Mark.

12 Are there any questions of Mark on this
13 item?

14 I don't believe -- hearing no questions,
15 I don't believe we have anyone signed up to speak on
16 this item. So at this time --

17 COMMISSIONER SOWELL: Move the approval.

18 CHAIRMAN PABLOS: Okay. Great. I was
19 going to ask --

20 COMMISSIONER EDERER: Second.

21 CHAIRMAN PABLOS: Somebody wants to get
22 out of here. Hey, I can't do it like last time. Last
23 time was a record pace. But we'll get there.

24 Okay. So we have a motion to approve by
25 Sowell, seconded by Ederer.

1 Any additional comments?

2 Okay. Well, at this time all those in
3 favor signify by saying aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN PABLOS: Any opposed?

6 That motion carries.

7 Mark?

8 MR. FENNER: The next proposal for a rule
9 change is a new rule, Section 309.11, Fees for Requests
10 to Approve a Transfer of Pecuniary Interests. This
11 would require an association that wanted to transfer an
12 ownership interest in a racetrack, with its request, to
13 also submit a fee to cover both the processing by the
14 Commission and the background check by the Department
15 of Public Safety.

16 If the association is requesting a change
17 of either a majority of the interest or if it effects a
18 change in the control of the racetrack, the total fees
19 would range from \$3500 to \$75,000 depending on the
20 class of racetrack the request was made for. This is
21 approximately one-third the cost of applying for an
22 original license.

23 There are greatly reduced fees if it's an
24 interest of over five percent but less than a change in
25 control and less than -- less than a majority change.

1 That fee is going to range from 175 to 1500 dollars
2 depending on the class of track. If it's less than
3 five percent, then the fees would range from \$75 to
4 \$600.

5 CHAIRMAN PABLOS: Thank you, Mark.

6 Any technical or clarifying questions?

7 I have Bryan Brown signed up to speak,
8 please. Bryan?

9 MR. BROWN: Good afternoon,
10 Commissioners. I'm Bryan Brown with Retama Park.

11 My comment relates to Section (4) of
12 309.11. That's on the bottom of page V-4. Retama Park
13 has a lot of little, little-bitty interests that are
14 transferred. I'm not sure if they're even worth the
15 \$600 in fees that would be required to process that
16 transfer.

17 So we'd request between now, the proposal
18 stage, and the adoption stage that maybe we work with
19 staff and see if there's something that can be added in
20 terms of a -- for instance, a maximum level of percent
21 interest that's transferred that triggers these fees or
22 some lower fees for very small interests because we
23 do -- I mean, you've seen quite a few. We have tiny,
24 tiny interests that are transferred that I don't know
25 would justify these types of fees for a Class 1.

1 CHAIRMAN PABLOS: Absolutely, Bryan. And
2 that's the purpose of the public comment. And as we
3 refer this to the rules committee, you'll have plenty
4 of opportunity to work with staff to try to figure out
5 what is the best course of action to take.

6 MR. BROWN: Thank you.

7 CHAIRMAN PABLOS: Appreciate it.

8 Anyone else signed up to speak on this
9 item?

10 Okay. At this time I'll entertain a
11 motion to publish this proposed Rule 309.11. Do I have
12 a motion?

13 COMMISSIONER SOWELL: So move.

14 CHAIRMAN PABLOS: Moved by Sowell.

15 Second, anyone?

16 COMMISSIONER EDERER: Second.

17 CHAIRMAN PABLOS: Seconded by Ederer.

18 Additional comments?

19 Hearing none, I'll entertain a vote. All
20 those in favor please signify by saying aye.

21 COMMISSIONERS: Aye.

22 CHAIRMAN PABLOS: Any opposed?

23 That motion carries.

24 Mark, please?

25 MR. FENNER: The next agenda item is a

1 proposal for a new rule, Section 309.12, Fees for
2 Requests to Approve Change of Location. This rule
3 proposal would require an association that's proposing
4 to change the location of its racetrack to submit a
5 processing fee when requesting Commission approval.

6 The processing fee would range from \$7500
7 to \$100,000 which is equivalent to two-thirds of the
8 cost of the same fee when applying for an original
9 license of the same class. This fee is for actual
10 costs only. Any cost overruns would be billed to the
11 association. If it's less than that, we would return
12 to them the difference.

13 CHAIRMAN PABLOS: Any technical or
14 clarifying questions of Mark?

15 I don't have anyone signed up to speak on
16 this item.

17 COMMISSIONER ADAMS: Move approval,
18 Mr. Chairman.

19 CHAIRMAN PABLOS: Who was that? Adams?
20 Commissioner Adams. The motion is to approve.

21 COMMISSIONER SOWELL: Second.

22 CHAIRMAN PABLOS: Seconded by Sowell.

23 Any additional comment?

24 Hearing none, I'll take a vote. All
25 those in favor signify by saying aye.

1 COMMISSIONERS: Aye.

2 CHAIRMAN PABLOS: Any opposed?

3 That motion carries.

4 Mark?

5 MR. FENNER: The next proposal is a
6 proposal to amend Section 311.5, License Fees. These
7 are increases to the occupational license fees. These
8 proposed increases range from a low of about five -- a
9 low of five dollars for occupations such as kennel
10 helpers and pony persons to a high of \$25 for
11 occupations such as owners or trainers.

12 The amendment also creates two new
13 license types, the vendor totalisator and
14 vendor/totalisator employee license fees of \$500 and
15 \$50 respectively.

16 This was presented at the working group
17 on funding and we are still hoping to hear some input
18 from the industry regarding these proposals.

19 CHAIRMAN PABLOS: Absolutely. And I'll
20 remind the public that there will be plenty of
21 opportunity for public input on these items. We are
22 simply asking Mark to publish these items for public
23 input.

24 Anyone signed up to speak on this item?

25 No?

1 Okay. At this time I'd like to invite a
2 motion to publish this amendment to the rule.

3 COMMISSIONER ADAMS: Move approval,
4 Mr. Chairman.

5 CHAIRMAN PABLOS: Thank you, Mr. Adams.
6 Second?

7 COMMISSIONER HICKS: Second.

8 CHAIRMAN PABLOS: Seconded by Hicks.

9 Any further comments?

10 All those in favor signify by saying aye,
11 please.

12 COMMISSIONERS: Aye.

13 CHAIRMAN PABLOS: Any opposed?

14 Okay. That motion carries.

15 Mark, please?

16 MR. FENNER: The next item is a proposal
17 to amend Section 311.104, Trainers. This rule change
18 would charge a single 50-dollar fee for administering
19 both the written and practical examinations to become a
20 trainer. It also provides that failure to timely
21 reschedule this exam will result in loss of the testing
22 fee.

23 This would not only help to generate
24 additional revenue, but it will also help to save the
25 Commission time and expense from missed examinations

1 and also examinations that are taken before a person
2 has really adequately prepared themselves.

3 CHAIRMAN PABLOS: Any technical or
4 clarifying questions of Mark?

5 COMMISSIONER SOWELL: Yes. I'm just -- I
6 think I know; but when it says the 50-dollar fee for
7 administering both the written and practical
8 examinations, I just want to make sure that that's not
9 \$50 for each one but it is \$50, in fact, for both.

10 MR. FENNER: Yes, sir, you are correct.
11 It is not \$50 for the written and \$50 separately for
12 the practical.

13 CHAIRMAN PABLOS: Any additional
14 questions? Commissioner Adams, please.

15 COMMISSIONER ADAMS: Yeah. I just -- are
16 you sure we haven't had something like this before? I
17 can't believe we haven't charged for this before.

18 MR. FENNER: We do not have something
19 like this already.

20 COMMISSIONER ADAMS: Thank you.

21 CHAIRMAN PABLOS: Any other questions?

22 Anyone signed up to speak? No?

23 Okay. At this time I'd like to invite a
24 motion to publish for a proposed amendment of Rule
25 311.104. Do I have a motion?

1 VICE-CHAIRMAN CARTER: So move.

2 CHAIRMAN PABLOS: So moved by Carter.

3 Second?

4 COMMISSIONER ADAMS: Second.

5 CHAIRMAN PABLOS: By Adams?

6 COMMISSIONER ADAMS: Right.

7 CHAIRMAN PABLOS: Thank you,

8 Commissioner.

9 Any additional comments?

10 Okay. At this time I'll take a vote.

11 All those in favor signify by saying aye, please.

12 COMMISSIONERS: Aye.

13 CHAIRMAN PABLOS: Any opposed?

14 That motion carries.

15 Item 7, please, Mark.

16 MR. FENNER: A proposal to amend Section

17 315.1, Required Officials. The Texas Racing Act

18 requires that we provide three judges at each greyhound

19 race meeting, but it's the Commission rule that

20 specifies that we have to have three judges for each

21 Commission -- or greyhound race.

22 What we would like to do is propose

23 amending that to say that you have to have at least two

24 so that we would have the flexibility to provide two

25 greyhound judges or three greyhound judges for a

1 particular race. This would allow us to save some
2 expense. We have assessed the duties and
3 responsibilities, and we believe that the job duties
4 can be met by two.

5 CHAIRMAN PABLOS: Any technical or
6 clarifying questions of Mark?

7 COMMISSIONER SOWELL: Yes. Question.

8 CHAIRMAN PABLOS: Commissioner Sowell?

9 COMMISSIONER SOWELL: Mr. Fenner, is it
10 possible -- and it may be so speculative you can't
11 tell, but is it possible to determine what kind of
12 income this might yield?

13 MR. FENNER: May I defer to Sammy?
14 Mr. Jackson?

15 CHAIRMAN PABLOS: And, Commissioner
16 Sowell, you were referring to the savings realized from
17 this? That's what you're referring to?

18 MR. JACKSON: I would say that the
19 average annual salary for a judge is about 52,000 to
20 55,000 a year.

21 CHAIRMAN PABLOS: Any other questions?
22 Yes, Commissioner Schmidt.

23 COMMISSIONER SCHMIDT: Mr. Fenner, I just
24 wanted to clarify that there is a way to arbitrate it
25 in case we had two judges and there was a difference of

1 opinion.

2 MR. FENNER: We would still designate
3 three judges for the meet, so there would always be a
4 third judge assigned to it. We also have our head
5 steward and judge, Mr. Ferrara, who could be available
6 to sit on the board as well.

7 COMMISSIONER SCHMIDT: Okay. Thank you.

8 CHAIRMAN PABLOS: Yeah, I think it's
9 important that we make absolutely certain that in no
10 way are we compromising our regulatory functions at
11 that point.

12 Any other comments or questions?

13 Do we have anyone signed up to speak on
14 this item?

15 Okay. At this time I'd like to invite a
16 motion to publish the proposed amendment to Rule
17 315.1. Do I have a motion?

18 COMMISSIONER SOWELL: So move.

19 CHAIRMAN PABLOS: So moved by Sowell.

20 Second?

21 COMMISSIONER EDERER: Second.

22 CHAIRMAN PABLOS: Seconded by Ederer.

23 Any additional comments?

24 At this time those in favor please
25 signify by saying aye.

1 COMMISSIONERS: Aye.

2 CHAIRMAN PABLOS: Any opposed?

3 Okay. That motion carries.

4 Now we move on to rule adoptions, Item
5 B-1. Mark?

6 MR. FENNER: This is the adoption of a
7 new rule, 313.426, Toe Grabs Prohibited. This was the
8 rule that specifies a maximum toe grab on the front
9 hooves of Thoroughbreds of two millimeters and of four
10 millimeters for the front hooves of Quarter Horses.

11 This was published in the December 19th,
12 2008 edition of the Texas Register for public comment.
13 We've received no comments during that period. Staff
14 recommends adoption of the rule.

15 CHAIRMAN PABLOS: Any technical or
16 clarifying questions of Mark?

17 We do have Rob Werstler signed up to
18 speak. Good afternoon, Mr. Werstler.

19 MR. WERSTLER: Good afternoon,
20 Mr. Chairman, Commissioners. My name is Rob Werstler.
21 I'm executive director for the Texas Quarter Horse
22 Association. I have an update and a request.

23 Up until this time, most of the research
24 done on toe grabs has been done on all Thoroughbred
25 racehorses. Little, if none, has been done on Quarter

1 Horse race racehorses. Currently the American Quarter
2 Horse Association -- I was just out in Amarillo last
3 weekend and they are currently compiling information on
4 Quarter Horse racehorses and the effects toe grabs may
5 have on them.

6 I would ask that -- like I said, up until
7 this point, all of the information gathered has been on
8 racing Thoroughbreds. We don't have a problem with
9 this rule; but the fact that there hasn't been a lot of
10 research behind it, we would ask that when this
11 research does come back from the AQHA that we revisit
12 the rule if the data shows a need.

13 CHAIRMAN PABLOS: Very well.

14 Any questions of Mr. Werstler,
15 Commissioners?

16 Thank you very much.

17 MR. WERSTLER: Thank you.

18 CHAIRMAN PABLOS: Anybody else signed up
19 to speak on this matter?

20 Okay. At this time I'd like to entertain
21 a motion to adopt this rule, 313.426, Toe Grabs
22 Prohibited. Do I have a motion?

23 VICE-CHAIRMAN CARTER: So move.

24 CHAIRMAN PABLOS: Moved by Carter.

25 COMMISSIONER SOWELL: Second.

1 CHAIRMAN PABLOS: Seconded by Sowell.

2 Any additional comments?

3 COMMISSIONER ADAMS: Mr. Chairman?

4 CHAIRMAN PABLOS: Yes, sir.

5 COMMISSIONER ADAMS: Would the maker of
6 the motion include Mr. Werstler's suggestion that we
7 revisit the information?

8 CHAIRMAN PABLOS: What I'd like to do is
9 treat that separately. So at this time we'll deal with
10 the motion and then I'll step into Mr. Werstler's
11 request.

12 COMMISSIONER ADAMS: That's fine, sir.

13 CHAIRMAN PABLOS: Any additional
14 comments?

15 Okay. At this time all those in favor
16 please signify by saying aye.

17 COMMISSIONERS: Aye.

18 CHAIRMAN PABLOS: Any opposed?

19 That motion carries.

20 Now let's deal with the request. The
21 request is to revisit this rule should it be needed
22 based on some research that is being conducted. If the
23 findings come back and the findings are sufficient
24 enough to justify, my request of staff is to consider
25 the request and bring it to the Commission.

1 COMMISSIONER SOWELL: So move.

2 CHAIRMAN PABLOS: Okay. Is there any --

3 COMMISSIONER EDERER: Second.

4 CHAIRMAN PABLOS: Is there any questions
5 or comments on this?

6 Somebody really wants to go home. I
7 appreciate that, Commissioner.

8 COMMISSIONER SOWELL: I knew you were in
9 a hurry.

10 CHAIRMAN PABLOS: It won't be in the form
11 of a motion. It's a direction that we ought to give
12 staff.

13 Any comments? Commissioner Adams, are
14 you --

15 COMMISSIONER ADAMS: Yeah. I'd just like
16 to suggest that staff just put a little tickler in the
17 file here, whatever we need to do, have Mister -- when
18 Mr. Werstler is able to furnish this information to us
19 that at that time that we consider an agenda item to
20 review it and -- or send it to the rules committee for
21 their review.

22 CHAIRMAN PABLOS: Thank you.

23 Any other comments or questions?

24 COMMISSIONER SOWELL: One comment. And
25 that is that I would like to commend Mr. Werstler on

1 his benevolence and his attitude, which has not always
2 been this sweet and nice. I just want to tell you,
3 Rob, it must be age.

4 CHAIRMAN PABLOS: You're turning a new
5 leaf, correct?

6 Well, thank you for those comments.

7 I think -- okay. Next item, please,
8 Mark.

9 MR. FENNER: This is the adoption of a
10 new Section 319.364, Testing for Androgenic-Anabolic
11 Steroids. This item relates to the testing in urine
12 for steroids. It's taken directly from the proposed
13 RCI model rules.

14 This amendment was published in the
15 December 19th, 2008 edition of the Texas Register for
16 public comment. It was reviewed at the safety and
17 medication working groups meetings. We received no
18 additional comments during the public comment period.
19 We would recommend adoption of the rule.

20 CHAIRMAN PABLOS: Thank you, Mark.

21 Any technical or clarifying questions of
22 Mark, Commissioners?

23 Anyone signed up to speak on this item?

24 At this time I'd like to entertain a
25 motion to adopt new Rule 319.364.

1 COMMISSIONER EDERER: So move.

2 CHAIRMAN PABLOS: Moved by Ederer.

3 COMMISSIONER ADAMS: Second.

4 CHAIRMAN PABLOS: Seconded by Adams.

5 Any additional comments?

6 All those in favor please signify by

7 saying aye.

8 COMMISSIONERS: Aye.

9 CHAIRMAN PABLOS: Any opposed?

10 That motion carries.

11 There is no executive session for today.

12 Any old or new business from the

13 Commission?

14 Hearing none, our next scheduled meeting

15 will be Tuesday, April 7th, 2009.

16 And at this time I'd like to adjourn our

17 meeting of the Texas Racing Commission. The time is

18 12:39. Thank you very much.

19 (Proceedings concluded at 12:39 p.m.)

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1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

3

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

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

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,
15 Texas, this 4th day of March, 2009.

16

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19

20

21

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