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TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

PUBLIC HEARING

On the 22nd day of November 2004 the following proceedings came on to be heard in the above-entitled and numbered cause before Chair Rogers, Commissioner presiding, held in Austin, Travis County, Texas:

Proceedings reported by Computerized Stenotype Machine; Reporter's Record produced by Computer-Assisted Transcription.

A P P E A R A N C E S

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Commissioners:

- R. Dyke Rogers, Chair
- Jesse R. Adams
- Treva Boyd
- G. Kent Carter, D.V.M.
- Comer Cottrell (Not present)
- Michael G. Rutherford, Vice Chair
- Charles L. Sowell (Not present)
- Carole Keeton Strayhorn

1 out to be a productive meeting. And let us know if
2 there's anything we can do for you.

3 Thank you.

4 CHAIR ROGERS: Thank you, sir. Just another
5 matter of note, there are restrooms directly behind you
6 and there are restrooms over through this door
7 (indicating). So anybody feel free to do whatever they
8 need to do there.

9 Ms. Giberson, would you call the role
10 please.

11 MS. GIBERSON: Jesse Adams.

12 COMMISSIONER ADAMS: Here.

13 MS. GIBERSON: Treva Boyd.

14 COMMISSIONER BOYD: Here.

15 MS. GIBERSON: Dr. Kent Carter.

16 DR. CARTER: Here.

17 MS. GIBERSON: Comer Cottrell;

18 (No response.)

19 MS. GIBERSON: Colleen McHugh.

20 COMMISSIONER McHUGH: Here.

21 MS. GIBERSON: Mike Rutherford.

22 COMMISSIONER RUTHERFORD: Here.

23 MS. GIBERSON: Charles Sowell.

24 (No response.)

25 MS. GIBERSON: Carole Keeton Rylander.

1 COMMISSIONER STRAYHORN: Strayhorn.

2 MS. GIBERSON: Strayhorn, excuse me. I
3 didn't read it, I said it.

4 COMMISSIONER STRAYHORN: It has been one
5 year, 10 months and five days.

6 MS. GIBERSON: Pardon. And Dyke Rogers.

7 CHAIR ROGERS: Here.

8 Okay. There's a quorum present, so we'll go
9 ahead and begin. I would like to say that we -- the
10 meeting today is being transcribed by a court reporter.
11 So as we have people come and testify, if you would
12 speak slowly and clearly, we will be able to get that
13 transcribed and have the correct record of it.

14 We have a little bit of house -- a little
15 bit of our normal meeting to do before we get to why
16 most of you are here today. And I want to thank you for
17 coming. And we appreciate your -- your involvement in
18 this issue. And we're glad to hear from you. We'll set
19 out -- when we get to the issue most of you are here
20 for, we will set out kind of some standards of how we're
21 going to conduct that.

22 We will begin with proposals, consideration
23 and action of the following rules, Chapter 313,
24 Officials and Rules of Horse Racing rule review, under
25 Tab 1. And Chapter 315, Officials and Rules of

1 Greyhound Racing, under Tab 2.

2 I's recognize Ms. Flowerday to lay out these
3 rule reviews, please.

4 MS. FLOWERDAY: Commissioners, as I told
5 you, Government Code Section 2001.039 requires the
6 Commission to review its rules every four years to
7 determine whether or not the rules should continue to
8 exist.

9 According to the rule review plan that this
10 Commission has adopted, it's now time for you to review
11 Chapters 313 and 315. These are the rules that layout
12 the specific requirements for the officials and the
13 conduct of actual horse races and greyhound races.

14 In your packet is the staff's draft. Most
15 of the changes are stylistic. They are clarifications,
16 standards for the exercise of discretion, and there's
17 also the elimination of outdated or unenforced rules.

18 We developed these drafts and sent them out
19 to the race tracks and to the industry organizations a
20 few weeks ago. At this point, all the comments that we
21 have received have been minor discussion issues or
22 support of these changes. If you have any specific
23 questions about what we're proposing, either I or
24 John Ferrara can answer those questions.

25 And we would recommend that the Commission

1 vote to propose these rules be used for publication in
2 the Texas Register.

3 CHAIR ROGERS: Thank you, Ms. Flowerday.

4 Commissioners, are there any comments or
5 questions of Ms. Flowerday?

6 Yes. Commissioner Boyd.

7 COMMISSIONER BOYD: I have a comment. On
8 Page 1 of 5, I appreciate the added language there. I
9 guess you added that to help us become more consistent
10 and to back up our stewards in the --

11 MS. FLOWERDAY: I'm sorry. You're talking
12 about in Chapter 313, Page 1-5.

13 COMMISSIONER BOYD: 1-5, yes.

14 MS. FLOWERDAY: On Lines 5 and 6, yes.

15 COMMISSIONER BOYD: Correct. Correct. And
16 I appreciate that language.

17 MS. FLOWERDAY: That was what I was talking
18 about adding some standards for the exercise of
19 discretion.

20 COMMISSIONER BOYD: And then on Page 1-45,
21 Line 15 and 16. Did you mark that out? Because now
22 those are just ambiguous. I mean, it includes all
23 jockeys, correct?

24 MS. FLOWERDAY: That's correct.

25 COMMISSIONER BOYD: Anyway, so -- okay.

1 MS. FLOWERDAY: There were some rules where
2 we differentiated between jockey and apprentice jockey
3 and other rules where we just talked about other
4 jockeys. And so we decided we would just do away with
5 these extra allusions to apprentice jockeys. All the
6 rules related to jockeys also apply to apprentice
7 jockeys.

8 COMMISSIONER BOYD: Okay. And then on 1 --
9 Page 1-50 and 1-51. All that language that was deleted,
10 where did that language go, is it just not necessary
11 anymore?

12 MS. FLOWERDAY: It's -- John, maybe could
13 answer that question a little bit better, but let me
14 give it a shot. I think it's something that is kind of
15 outdated and that we don't really enforce it. I'm not
16 sure that we ever really enforced it. That's the
17 language that I know is in the rules. It has been in
18 the rules since 1988 when we first started adopting
19 rules. And we borrowed heavily from other racing
20 jurisdictions. So I think it's just outdated.

21 COMMISSIONER BOYD: Thank you.

22 CHAIR ROGERS: Any other comments or
23 questions?

24 There's a real ringing in this microphone.
25 I don't know if anybody can do anything with that, but

1 if you can, we'd appreciate it.

2 If there aren't, I would --

3 Yes, Commissioner Adams.

4 COMMISSIONER ADAMS: Mr. Chairman, is there
5 anyone here to speak on this issue? Did we have anyone
6 kind signed up to speak?

7 CHAIR ROGERS: Don't know -- no, we don't
8 have anyone signed up to speak.

9 Is there anyone that would like to address
10 this issue?

11 Thank you.

12 If there isn't any further discussion, I
13 would accept the motion to propose publication in the
14 Texas Register for the rule reviews of Chapter 313 and
15 -15 as presented.

16 COMMISSIONER BOYD: I so move.

17 CHAIR ROGERS: Okay. Motion made by
18 Commissioner Boyd, seconded by Commissioner Strayhorn.
19 All in favor say aye.

20 COMMISSIONERS: Aye.

21 CHAIR ROGERS: Okay. Motion passes. We'll
22 move to consideration of possible action on the
23 following matters: That would be budget and finance.

24 Mark Patterson. Mr. Patterson, if you would
25 address this, please.

1 MR. PATTERSON: Good morning, I'm
2 Mark Patterson, finance manager of Race Commission. I
3 provided an update of our expenditures through
4 October 31st, which is 16.67-year lapse. Looking at
5 your operating expenses there, you see we expended 14.03
6 percent for the year. Thus, we're under budget by 2.64
7 percent.

8 CHAIR ROGERS: Mr. Patterson, just a moment.
9 Commissioners, this is on a separate item
10 that was passed out to you at the meeting today. It's
11 not in the folder, due to Mr. Jackson's illness. It's
12 this separate sheet here. I just want to be sure
13 everybody's able to follow you.

14 MR. PATTERSON: Okay.

15 CHAIR ROGERS: Okay. Go ahead,
16 Mr. Patterson.

17 MR. PATTERSON: We expended 14.03 percent
18 for the year. And therefore, we're 2.64 percent under
19 budget for the year.

20 If you have any questions, I'll be more than
21 happy to answer those.

22 CHAIR ROGERS: Commissioners, any questions
23 or comments to Mr. Patterson?

24 COMMISSIONER STRAYHORN: Good place to be.

25 CHAIR ROGERS: That's considerably better

1 than being over. Thank you very much.

2 Okay. We will move to a selection of an
3 internal auditor. I'd recognize Ms. Flowerday to lay
4 out the selection on the internal auditor, please.

5 MS. FLOWERDAY: Commissioners, under the
6 Internal Auditing Act, the Racing Commission is required
7 to have an internal auditor, whether on staff or under
8 contract, because we do cash transactions of more than
9 \$10 million in a year, exclusively because we handle the
10 Texas Bred Fund.

11 The subcommittee that the Chairman appointed
12 included myself and Sammy Jackson from the staff and
13 Commissioners Jesse Adams and Treva Boyd. The
14 subcommittee issued a request for proposal on
15 September 13th and with the submission deadline of
16 October the 15th.

17 Two bids were received. In your packet, I
18 sent along a copy of the bid evaluation materials that I
19 developed for the use of the subcommittee. And that
20 evaluation material includes a summary of the two
21 bidder's qualifications. You also received a copy of
22 the bids score sheet that shows the scores of each
23 member of the subcommittee and the final weighted score.

24 The subcommittee recommends that the
25 Commission select Monday Rufus, PC, as the internal

1 auditor for the Commission. And we also recommend that
2 the executive secretary be given the authority to
3 negotiate a contract with the successful bidder for an
4 initial term of one year to expire on August 31st of
5 2005, to correspond with the end of the fiscal biennium,
6 with an option to extend the contract for two, two-year
7 terms, subject to the approval of the Commission.

8 So the way this would work, we would -- you
9 know, we've kind of been off of the fiscal biennium with
10 our current contract, which has now expired. And so by
11 having initial term to expire on August 31st of '05, we
12 would then be back in sync with the fiscal biennium.
13 And then in September of each odd numbered year, the
14 Commission would have the ability to tell the staff
15 whether or not to renew that contract.

16 CHAIR ROGERS: Could you clarify for me why
17 you would want to do two two-year terms as opposed to
18 one two-year term at the end of that period?

19 MS. FLOWERDAY: I was just trying to avoid
20 the need for going out for bid on -- too soon. The --
21 having the option for two, two-year terms was subject to
22 the approval of the Commission still gives the
23 Commission that option, next September and then two
24 years hence, to decide whether or not you wanted to go
25 out on bid again.

1 COMMISSIONER BOYD: Chairman, if I may?

2 CHAIR ROGERS: Yes.

3 COMMISSIONER BOYD: If it's working well,
4 then it keeps us from having to go back through the
5 process again. Yet, it also affords us the opportunity
6 to go back in and scrutinize it, if we need to.

7 CHAIR ROGERS: Okay. Thank you for the
8 clarification.

9 Any other questions, Ms. Flowerday?

10 Is there anyone here that needs to speak on
11 this subject, who would like to speak on this subject?

12 Okay. Any comments, Commissioners?

13 Okay. If there isn't and we want to accept
14 the recommendation of the committee, it would require a
15 motion to award the contract for internal auditing
16 services to Monday Rufus, PC, and to delegate the
17 executive secretary the authority to negotiate and enter
18 into a contract for the initial two-year term on
19 August 31st, 2005, with an option to extend the contract
20 for two two-year terms, with the approval of the
21 Commission.

22 I would accept that motion.

23 MR. ADAMS: Mr. Chairman.

24 CHAIR ROGERS: Yes.

25 MR. ADAMS: A correction on your -- I

1 believe you stated an initial two-year term and that's
2 an initial one-year term with two two-year extensions.

3 CHAIR ROGERS: Okay. Would accept that
4 motion that way.

5 COMMISSIONER ADAMS: Yes, I'll go for that.

6 COMMISSIONER RUTHERFORD: Second.

7 CHAIR ROGERS: Okay. Commissioner Adams has
8 made the motion, Commissioner Rutherford has seconded
9 the motion. Is there anyone has any question about how
10 this motion is presently needed to be restated?

11 All in favor say aye.

12 COMMISSIONERS: Aye.

13 CHAIR ROGERS: All opposed?

14 Vote carries.

15 Now, we'll move to proceedings on race
16 tracks, consideration and action on the following
17 matters: A request by Austin Jockey Club, Ltd. for a
18 change of location under the Texas Racing Act 6.14D.
19 That's under Tab 5 of your -- of your booklet,
20 Commissioners.

21 Because we have a great number of people
22 that have an interest in this and a large number of
23 people that have signed up to testify, I think we
24 probably need to set some rules of how that will happen.
25 And I would propose that what we do is, we give the

1 proponents at Austin Jockey Club 15 minutes to make
2 their case. I think we will -- plus whatever time the
3 commissioners may want to ask questions of them at this
4 point.

5 Then -- and you may want to hold some of
6 those questions until after we've heard some of the
7 comments for and against.

8 Then I believe that we will give Manor Downs
9 an equal amount of time, since they are the most closely
10 affected entity to this proposed facility.

11 And then after that, I think we will move to
12 allow people for and against will have -- we will hear
13 one person for, one person against, one person for, one
14 person against. We'll hold those to three minutes, plus
15 any questions that Commissioners might have. I think
16 that will give ample time for everybody to be able to
17 have their say and for us to be able to make a better
18 decision.

19 I am going to allow, after the first two
20 people, we will call those in no particular order,
21 except that I think if there are elected officials here
22 who may have some other things they need to do, I think
23 we will listen to them first, before we hear from
24 everyone else. And we want to give everybody a good,
25 fair hearing on this, have everybody an opportunity to

1 say what's on their mind. And then we will decide what
2 to do from there.

3 We'll begin by calling the representatives
4 from Austin Jockey Club. If you will come and lay out
5 your case, please.

6 I would also ask Ms. Giberson to keep the
7 time for us.

8 Yes, please.

9 MR. ARCHER: Good morning, ladies and
10 gentlemen. My name is Joe Archer. I'm the President of
11 the Austin Jockey Club partnership. With me today are
12 Brian Brown, Joe Strauss, Barry Madden. Ms. Pickman
13 couldn't get in because of the weather. We hope Tim
14 Timmerman will be here in a little while. He's in a
15 condemnation hearing.

16 This started out as a process where myself
17 and Barry Madden and the Retama Park folks got together.
18 As you will recall, those of you who were on the
19 Commission at the time or had some familiarity with it,
20 as an endeavor by a horseman to bring what we considered
21 a decent racetrack to Austin, Texas. Mr. Madden, as
22 president of the Texas Quarter Horse Association, and I,
23 as president of the Texas Thoroughbred Association, on
24 two occasions.

25 And we got together and we wanted this to be

1 a horseman-friendly situation. So we spent an awful lot
2 of money and tried very hard to convince the City of
3 Austin to let us build a racetrack over on Riverside
4 Drive, as you will recall. And then we set about trying
5 to find another site that we could not have to go
6 through the same financial situation and all the other
7 problems that came along with it. So we got wind that
8 Pflugerville had an entertainment area designated.

9 So we went through the traditional due
10 diligence of meeting with economic development people,
11 talking to some leaders. Oh, and I guess this started
12 probably a year and a half ago. And we started pursuing
13 land that was not for sale. Mr. Timmerman was very
14 allusive. And it took us a long time to finally get in
15 and persuade him to enter into a contract, which we did
16 in the summer of this year. And it has been provided to
17 the Commission.

18 And as soon as that was done, then we set
19 about the process of actually filing our permit. We
20 hired land planners, land strategy, Paul Linehan is here
21 today. And we were so infatuated, not only with the
22 site, but with the whole idea of the new 130 and the
23 park next door -- and you'll see all this. We felt it
24 was -- it was a good fit.

25 I'm not going to stand here today -- and I

1 hope I won't have to with the Commission -- and try to
2 defend our industry. I think we've already done that,
3 the State of Texas, Travis County has already past that.
4 And you, as Commissioners, know better than anybody else
5 what goes on in race tracks and the allegations that are
6 continually made against us. And I hope that we won't
7 have to defend ourselves and our industry on those
8 issues.

9 And with that, may I please call on
10 Mr. Brown at this time. Thank you.

11 MR. BROWN: Commissioners, Brian Brown,
12 vice-president of Austin Racing Partners, which is the
13 general partner of the Austin Jockey Club. I'll be
14 speaking from the package that we have submitted. Just
15 as a quick overview, we provided the ownership interest
16 of the Austin Jockey Club, as it stands today. Tack
17 Development, Limited, which is Mr. Tim Timmerman
18 controlled, has an option on our 10 percent interest --
19 limited partnership interest on the partnership. Again,
20 Mr. Timmerman, hopefully, will be here later on today.
21 All these interests are the same that you looked at a
22 couple meetings ago when you approved the transfer of
23 ownership.

24 The second page kind of gives an overview of
25 the racetrack location. Mr. Archer talked a little bit

1 about where the property is. It's located fronting
2 Pecan Street. Pecan Street runs into the eventual State
3 Highway 130 and toll road that will be going from Seguin
4 to Georgetown. State Road 45 is also under
5 construction, which will run perpendicular into State
6 Highway 130 and I'm going to guess about a mile and a
7 half from our property.

8 The fact that that road was under
9 construction, 45 and 130 and that Pecan Street had been
10 engineered to be six-lane in some sections and four-lane
11 in others, gave us a great deal of interest in the
12 property because of its access.

13 I want to call on right now, if I could,
14 Paul Linehan. He's with Land Strategies. He's going to
15 show you our site plan and our location via an aerial.

16 I'll be back up.

17 CHAIR ROGERS: Thank you.

18 MR. LINEHAN: Hello, Commissioners. My name
19 is Paul Linehan. And I've been representing the Austin
20 Jockey Club before the City of Pflugerville the last few
21 months. We've had a County Commissioners Court hearing
22 on August 10th. And at that time, we showed the
23 location of the site, which is right here off of State
24 Highway 130. This is 1826 (sic) going through the heart
25 Pflugerville and with major access points. The site is

1 a little over 200 acres. We had worked with the County
2 and have the association on their plans on how we may
3 get access to this site so that we could submit a
4 conceptual subdivision plan to the City of Pflugerville.

5 We had a major hearing with the City
6 Council, which was approved unanimously. And then we
7 had a public hearing and another follow-up meeting with
8 a planning commission from Pflugerville and received
9 unanimous support on our conceptual subdivision plan.

10 It is not the site plan, but it did break
11 the track, which is over 200 acres, into a racetrack,
12 which is 199 acres, which is a one-mile racetrack, which
13 shows the tension paddocks, the club stadium, the
14 expansion possibility for an amphitheater, lighting and
15 started working exactly on how the driveway cuts would
16 be located with street improvements between Pfenning
17 Lane and State Highway 130. That would be a six-lane
18 road, three lanes on each side. And we anticipated
19 putting driveway access points every 1,000 so that we
20 could access. This is the major part that access --
21 that completely surrounds the track to the southeast.
22 And these are retail sites located with three different
23 driveway cuts at this location, this location and that
24 location. Those three sites that you could get access
25 in and out.

1 We have talked to traffic engineers. But at
2 this time, without detailed plans to go forward, we have
3 not initiated that traffic impact analysis, although I
4 have personally met with the transportation experts that
5 did the plan for the County, as well as met with the
6 County staff and the City of Pflugerville staff on
7 future highway improve -- roadway improvements to this
8 area.

9 You can see from the lower map that the site
10 is well located. As I mentioned, the county park is
11 completely surrounded to the southeast of the track and
12 the closest single-family residential at this time is
13 three-quarters of a mile away from any access point to
14 this property.

15 We're also proposing hike-and-bike trails
16 down along the floodplain and the lower area of the
17 tract in the southwest corner of the site. And we'll be
18 also trying to bring access behind the rear of the tract
19 to access with trailers for the horses, the jockeys and
20 the paddock area.

21 As I mentioned, as far as approval site plan
22 goes, at this time, all that we've been able to do is
23 take this to the City of Pflugerville get their positive
24 endorsement. And get an approval for the conceptual
25 subdivision plan at this time.

1 COMMISSIONER STRAYHORN: Excuse me,
2 Mr. Linehan. What's the anticipation on how many
3 vehicles a day and how you handle all the traffic?

4 MR. LINEHAN: We haven't done it, but we
5 have --

6 COMMISSIONER STRAYHORN: The latest figure I
7 heard is -- what's the latest you've heard?

8 MR. LINEHAN: Well, we have parking for
9 3,200 cars on this. So it depends on what type of
10 traffic. We have talked to the traffic engineers to
11 keep flows going along State Highway 1826 (sic) by doing
12 blinking yellow lights, because during the majority use
13 of this facility, there won't be a need for people start
14 along -- stop along 1826 (sic) to keep the traffic
15 moving.

16 However, during major events, off-duty
17 security patrol will be there to help direct traffic and
18 control traffic through these access points. So that
19 would only be during major events where those ceilings
20 will be lighted and operated along -- especially along
21 State Highway 1826 (sic) or Pecan Street which it is now
22 called.

23 COMMISSIONER STRAYHORN: Maybe somebody
24 else, I was trying to figure out how many vehicle trips
25 per day.

1 MR. LINEHAN: It would vary, depending upon
2 the activities that might go on at the site. If there's
3 a horse race or just pari-mutuel betting. So I saw, you
4 know, Saturday night at the Lone Star track in Houston,
5 you know, the parking lot three-quarters full and
6 everything was up running very well as I drove by. And
7 it was being operated this past Saturday night and
8 caused no traffic problems that I saw. So we would try
9 to manipulate the type of on and off access that they
10 have done.

11 COMMISSIONER STRAYHORN: There's been no
12 traffic impact analysis to tell you how many vehicle
13 trips a day?

14 MR. LINEHAN: We have started dialogue on
15 that, but we have not started that detailed study. We
16 have started mapping and met with the County on all the
17 new roadway improvements on Wells Branch Parkway that
18 the County is working on. It's south of Howard and into
19 the driveway access to the park, as well as State
20 Highway 130. So we've been looking at all the different
21 roads and how traffic might be able to leave this site
22 from 130 to State Highway 45 to Pecan Street to Dessau
23 Road and to the road improvements to the south and to
24 the west.

25 THE COURT: Excuse me. I -- I don't believe

1 I have a card on you. And I'm sorry, I didn't get your
2 last name.

3 MR. LINEHAN: Paul Linehan.

4 CHAIR ROGERS: Okay. Mr. Linehan, before
5 you leave, if you would, fill out one, if you haven't.
6 I would appreciate it.

7 I have a couple questions for you. One,
8 this site has not yet been annexed into the City of
9 Pflugerville; is that correct?

10 MR. LINEHAN: No. There is an area -- the
11 City of Pflugerville has started annexation hearings on
12 this. And they will be finalized, I think, in December
13 of this year.

14 CHAIR ROGERS: Okay. So this area is not
15 yet zoned one way or the other yet until it's annexed
16 into the City of Pflugerville?

17 MR. LINEHAN: No.

18 CHAIR ROBERTS: Okay.

19 MR. LINEHAN: But the City did allow us to
20 bring in a concept -- conceptual subdivision plan
21 because it was in their ETJ.

22 CHAIR ROGERS: Okay. I was out at the site
23 this morning, so I just need to get my bearings a little
24 bit with what that is. The road that is on the east
25 that's being under construction now, that is?

1 MR. LINEHAN: That is State Highway 130.

2 CHAIR ROGERS: Okay. That's 130. What is
3 the proposed completion date on that road?

4 MR. LINEHAN: 2007.

5 CHAIR ROGERS: 2007.

6 MR. LINEHAN: But they are planning on
7 operating certain segments of that roadway prior to
8 that. And I think some of the area on the east side of
9 Pflugerville is projected to open sooner than 2007.

10 CHAIR ROGERS: Okay. Thank you.

11 MR. BROWN: Any questions on the location?

12 The next page of the package talks about the
13 management personnel that will be involved. There will
14 be an on-site general manager who, under our current
15 plan, would report to me. And in addition to that, we
16 would have a mutuels manager on-site and assistant
17 director of security, a food and beverage manager and a
18 controller or assistant controller on-site. The
19 management personnel at Retama would be involved. And
20 you've got a list of all those people.

21 It's relatively the same list that we looked
22 at five years ago. The only difference is, they're all
23 five years older and five years more experience.

24 The timeline for construction and opening,
25 and I think you're going to probably hear a lot about

1 this today and you touched on a little bit. Pecan
2 Street is a big issue. And we certainly are well aware
3 of it. It was engineered, has been engineered for a
4 six-lane expansion, right in front of our property up to
5 about 685. And then four-lane from -- and I know I'm
6 going to toss out roads that you don't see. And
7 four-lane from 685 to Pfenning Lane.

8 That expansion is necessary, we believe, and
9 I think a lot of people believe today, with or without a
10 racetrack or any other development around the area. But
11 it's not funded yet and I don't -- I can't even tell you
12 it's close to being funded yet. But it's not funded
13 yet.

14 We have publicly, in front of the City
15 Council and the County Commission expressed a
16 willingness to participate financially in the
17 construction and funding the construction. What that
18 would be, you know, I don't know. We've said we will
19 bear our fair share of it. I will tell you, we've
20 increased our budget quite a bit. I think people could
21 figure out what we've increased it by and what we're
22 planning. The number that we increased our budget by
23 coincides with an estimate I've seen from the County as
24 to what our fair share would be.

25 COMMISSIONER STRAYHORN: And what -- what --

1 excuse me. What is that figure?

2 MR. BROWN: I knew you were going to ask me.
3 The number -- a million dollars. A million dollars.
4 The total construction cost is estimated somewhere
5 between -- and I'm going to give you the whole range
6 I've heard 4 and \$7 million. I think \$6 million might
7 be the best number that anybody's come up with. But,
8 you know, call it a range between 4 and 7, probably not
9 very close to 4, probably closer to 6.

10 And again, we feel, and a lot of people
11 feel, that road needs to be widened right now. There's
12 tremendous traffic on weekends for soccer tournaments by
13 virtue of the park's location -- Pecan Street's location
14 near the counties park -- metropolitan park out in that
15 area. It's already an issue with the City. And we
16 certainly acknowledge it.

17 If you skip a couple pages, we kind of
18 outline what our live racing season might be, our first
19 structure range, what we feel like our conditions would
20 carry. And I'll answer any questions. I'm just kind of
21 cognizant of the time.

22 As far as financing the construction, we
23 intend to provide equity to finance everything. We've
24 gotten letters that I'll provide Ms. Flowerday from our
25 bankers expressing their willingness to finance each one

1 of us. The only one we could not get because he was
2 away week is Mr. Hickman. I believe the Commission has
3 Mr. Hickman's financials and I know he has adequate cash
4 liquidity to handle his portion of the investment.

5 We also have a loan that was offered to us
6 by the Texas Thoroughbred HBPA several years ago. We
7 also plan to use that and draw down that loan via -- the
8 same way Lone Star Park did, via preopening simulcast.

9 The next page in the criteria that, I
10 believe, you-all are most -- are going to focus on the
11 most is the public interest criteria that contains 6.14
12 of the Act. Item 1, financial stability of AJC. We do
13 think it's very, very important for us to provide
14 substantial equity in our case. All equity to minimize
15 the risk to the partners and ensure that we're not going
16 to have financial problems.

17 Item 2 is resources for supplementing
18 purses. At this point, other than working with the
19 breed associations on special breed races, we don't have
20 plans to add to purses. I don't believe that there's
21 been very much of that that's occurred in our industry.
22 We do believe simulcast activity and live racing
23 activity will be very adequate to fund very good purses.

24 MS. GIBERSON: Three minutes, Brian.

25 MR. BROWN: Three minutes. Okay. The third

1 is location of the track. We talked about that. We
2 noted some distances from the nearest neighborhood,
3 church and school. Point out that those distances are
4 much shorter or much longer distances than what Retama
5 Park has. We have a neighborhood across the street. A
6 school and church adjacent to our property.

7 The effect of the proposed track on traffic
8 flow. Again, big, big issue. Not solved today. We
9 would very much think the best way to get that road
10 widen which needs to occur is to have somebody like us
11 and others involved to push this through with the
12 County, the City and maybe even the State to get funding
13 done.

14 The next item is facilities for patrons and
15 occupational licenses. And I won't bore you with all
16 the facilities and race animals and support services and
17 so on. I mean, please go through here as the meeting on
18 goes or ask me any questions.

19 One thing I wanted to touch on, when we
20 handed out the package, in Page 2 of the package, which
21 I think is a critical element to what you need to
22 decide, we really believe this market is being
23 underserved. And a big issue that the breed
24 organizations might have, a horseman might have is the
25 handle, particularly the simulcast handle, that's being

1 generated in this market, and therefore, the amount of
2 purse money generated in this market.

3 The chart that you have in Page 2 of that
4 extra package shows that every market is producing on a
5 percentage of personal income twice what this market is.
6 And we see no reason why this market can't perform
7 differently than it is. And just to do an estimate --
8 and I'm not an economist, but to do an estimate, if this
9 market produced on a percentage of personal income in
10 on-track handle what San Antonio does, the on-track
11 handle would be \$63 million in this market. And it's
12 nowhere close to that.

13 The other pages in that package are the
14 information that we passed out to the City Council when
15 we went before the Pflugerville City Council. That was
16 kind of, I know, very much, all that information in
17 their minds when they were determining, in essence, the
18 public interest issue that you have to look at as well.

19 And I'm probably about out. Heads are
20 shaking. So I'll be happy to answer your questions.

21 CHAIR ROGERS: Okay.

22 MR. BROWN: We do have a couple people from
23 the -- one person from the City Council of Pflugerville,
24 the City Manager from the City that's willing to
25 testify. And I believe --

1 CHAIR ROGERS: If they're signed up, we'll
2 be glad to hear them.

3 Do you have questions, Mr. Brown? And I
4 would tell you that I think we're going to have a lot of
5 opportunity for all kinds of questions after we hear
6 both sides, so we know what it is that he may need to
7 particularly address. But we can handle any questions
8 now that anybody would like to have.

9 Commissioner Boyd.

10 COMMISSIONER BOYD: Brian, on 5 of 3 in our
11 packet, I noticed that you -- concerning live racing
12 season, on the second paragraph, you said the AL -- AJC
13 is willing to offer live quarter horse raising if
14 requested by the quarter horseman. I believe when this
15 original package was submitted back when, I raised the
16 issue then of my concern about that statement. You
17 know, that is why we approached the Manor Downs issue to
18 start with. And you and I had a conversation then about
19 that.

20 MR. BROWN: Right.

21 COMMISSIONER BOYD: I was kind of concerned
22 a little bit why that statement remained in this packet
23 today.

24 MR. BROWN: Let me explain. And we want to
25 race quarter horses, but we don't want to do something

1 that the quarter horseman don't want to do. If they
2 want to remain at Manor Downs and enjoy that big breed
3 split advantage that they have right now, then that's
4 something that we don't want to hurt for them. But
5 we -- our track is being set up with a 550 yard shoot.
6 So we're ready. We'll race quarter horses. We want to.

7 And, you know, I apologize because I know
8 how that statement sounds, but I think I reworded it a
9 little bit to make it a little bit better. But it's in
10 no way meant to say that we're going to try anything
11 possible to avoid raising quarter horses. We want to.
12 We're committed to. Not only that, we have to
13 according --

14 COMMISSIONER BOYD: It is indeed.

15 MR. BROWN: -- to our rules and the Act.
16 And we have -- there's no choice, but we do want to. We
17 want to serve all the horseman. We want to serve
18 Arabians as well.

19 COMMISSIONER BOYD: It is indeed racing
20 opportunity for all breeds.

21 MR. BROWN: Absolutely.

22 COMMISSIONER BOYD: Area.

23 MR. BROWN: Yes.

24 COMMISSIONER BOYD: Thank you.

25 MR. BROWN: I apologize for not making that

1 more clear. I do remember the question about it.

2 COMMISSIONER STRAYHORN: Mr. Brown -- excuse
3 me, Mr. Chairman.

4 CHAIR ROGERS: Go ahead.

5 COMMISSIONER STRAYHORN: Mr. Brown, refresh
6 me again. I've read through lots of stuff. Okay. And
7 I believe Mr. Archer said this started a year and a half
8 ago. When was this first considered by the Pflugerville
9 City Council in an open meeting?

10 MR. BROWN: I believe it was in August of
11 this year was the first -- and if I could let me -- if I
12 could answer your question by giving a little
13 background.

14 COMMISSIONER STRAYHORN: Sure. If that's
15 more appropriately directed to the council or the mayor.

16 MR. BROWN: We have been looking in
17 Pflugerville for a long time, as Mr. Archer said. Call
18 it a year, year and a half. We could never get anyone
19 to even talk to us about a piece of land -- specific
20 piece of land that's the size that we needed. We looked
21 at several that were along 685, which is pretty near
22 some neighborhoods. Even if we could have found an
23 appropriate parcel, we couldn't get the landowner to
24 talk to us, plus it was pretty near neighborhoods. We
25 looked at the parcel that we're talking about today.

1 And I would bet we tried to even meet with
2 Mr. Timmerman, I'm going to guess, for three or four
3 months.

4 COMMISSIONER STRAYHORN: Is that before this
5 year and a half ago?

6 MR. BROWN: No, within that period of time.
7 Within that period of time. And we finally got a
8 meeting with Mr. Timmerman. Met with him several times.
9 The first couple of meetings, you know, he just wasn't
10 very interested. And so we really didn't think for a
11 considerable amount of time within this year, year and a
12 half that we had any shot in Pflugerville. But we saw
13 the growth, we saw 130 and we really wanted to be there.
14 So we kept pestering Mr. Timmerman until he couldn't say
15 no anymore.

16 And I want to say he finally agreed to start
17 negotiating a contract -- I may miss this -- April, May
18 of this year. Probably May. We signed a contract in
19 late June. And the City Council met for the first time,
20 I believe in August. I think it was August 14th. And
21 then --

22 COMMISSIONER STRAYHORN: So as far as any
23 public knowledge of this being worked on, it started
24 late June, August?

25 MR. BROWN: I think the word started to leak

1 out after June.

2 COMMISSIONER STRAYHORN: Leak out.

3 MR. BROWN: It was -- no, there was no
4 reason to say anything.

5 COMMISSIONER STRAYHORN: I'm not trying to
6 be -- I just -- I'm trying to find out when the public
7 first became aware that this was happening. And so --
8 and it wasn't a year and a half ago.

9 MR. BROWN: No.

10 COMMISSIONER STRAYHORN: It wasn't six
11 months ago, it was more like --

12 MR. BROWN: You know, I'll just say, because
13 it was the first City Council meeting, let's say it was
14 August of this year.

15 COMMISSIONER STRAYHORN: Was that first --
16 that meeting whenever it was, August 14th, whenever it
17 was, that first council meeting, is that the meeting
18 that this was voted on or was it just presented?

19 MR. BROWN: Just presented.

20 COMMISSIONER STRAYHORN: And it was voted
21 on.

22 MR. BROWN: In October, I believe the 20 --

23 COMMISSIONER STRAYHORN: The notebooks say
24 October.

25 MR. BROWN: Correct. The August meeting was

1 purely informational for the citizens. The people to
2 get up and express views and us to make a presentation.

3 But again, there's -- until -- you know,
4 really not much of a reason to say anything to anybody
5 because we couldn't have told anybody that we were even
6 close to being in Pflugerville until we signed that
7 contract.

8 COMMISSIONER STRAYHORN: Late June?

9 MR. BROWN: Yes.

10 COMMISSIONER STRAYHORN: And so I guess it
11 would have been posted for that August meeting, I'm
12 sure.

13 MR. BROWN: I don't know how the posting --

14 COMMISSIONER STRAYHORN: Thank you.

15 CHAIR ROGERS: Any other questions at this
16 point of Mr. Brown?

17 Okay. Thank you, Mr. Brown. I think at
18 this point, we would call on someone from Manor Downs,
19 who I think is -- we'll note that Commissioner Sowell is
20 here joining us.

21 COMMISSIONER SOWELL: That's high water.

22 CHAIR ROGERS: Had a little high water
23 coming in.

24 If we could get someone from Manor Downs to
25 come and kind of lay out what their position is before

1 we begin with the public.

2 MR. PHILLIPS: Good morning, Commissioners.
3 My name is Howard Phillips. I'm President of Manor
4 Downs.

5 And I would just touch briefly on Manor
6 Downs' position, where it is today. A little
7 historical. Manor Downs has been around since 1974. We
8 have been a licensed pari-mutuel facility since 1989.
9 We are the oldest -- in fact, we're the only operating
10 Class 2 pari-mutuel racetrack in the State.

11 I think I was before this Commission in 1999
12 with the concept plan to upgrade our facility. And at
13 that time, it was about, I think, one and a half million
14 dollar conversion of the Manor grand stand to a
15 glass-enclosed 15,000 square foot facility. But at the
16 mandate of the Commission at that period, we were
17 instructed that we needed to enlarge the oval to create
18 opportunities for thoroughbred racing. We undertook
19 that endeavor. And the final result was close to
20 \$4 million expenditure, which we are still servicing
21 that debt.

22 We have continued to operate quarter horse
23 raising with thoroughbred racing. We have continued to
24 petition in front of this Commission for a different
25 split in quarter horse racing and thoroughbred racing,

1 so that we may offer an improved quality of thoroughbred
2 racing. We all know what the political landscape is
3 like now and possible things at the Legislature which
4 would change our whole future. So we have been a
5 willing partner to keep the status quo in those
6 negotiations and maintain things as they are, hoping
7 that there will be some changes in our industry.

8 Obviously, Manor Downs is opposed to this
9 racetrack. We feel like the proximity, which is just
10 over five miles of live flight is too close. I am not
11 aware, personally, of any county in the United States
12 that has awarded two race tracks five miles apart or
13 even in the same county in the last 25 years, especially
14 in a market of population this size.

15 I would only ask you to give full
16 consideration to the fact where Manor Downs is and what
17 it's come through. And will state that we -- while we
18 may be underdeveloped, we have paid every vendor, every
19 contractor and we have not gone bankrupt. We have not
20 done any of those things and have currently just
21 finished negotiations, which began 15 months ago, trying
22 to find -- in the spring of 2003, trying to find a
23 suitable partner, preferably one in Texas, to help us
24 develop what we saw as our plan, our vision.

25 I will say since February of this year,

1 we've been in intense negotiations trying to work out
2 the terms of this combination of partnership, if you
3 will. And we have signed a letter of agreement that
4 states those terms. And a representative from Graves
5 Management, Inc. is here and will answer any questions
6 that you might have. Obviously, we're at the point
7 where we're drawing up with attorney's contracts and
8 then all of this is subject to Commission approval.

9 But the purpose of that is so that we can go
10 ahead -- and now we estimate it's about a two-plus
11 million dollar conversion of the main grand stand,
12 parking lots, et cetera to bring Manor Downs to where
13 our vision was in '99 up to where we think it should be.
14 And that, along with our seven and a half furlong oval,
15 I think will give Austin the kind of facility that it's
16 looking for and that it wants.

17 Again, I do not think this market can
18 support two race tracks. I think it's a bad message our
19 industry is sending. We've had enough closures and
20 Chapter 11s. And I don't think that's what we want to
21 take the chance on in any form or fashion. I think we
22 want to ride the success we've had out of the Breeders'
23 Cup and hopefully take this market forward.

24 I'll be glad to answer your questions.

25 CHAIR ROGERS: I just would have one. You

1 would admit at this point that the Austin market is
2 pretty underserved as far as -- as far as racing
3 and this -- in this market, as far as maximizing handle
4 and maximizing revenue to the State, let's put it that
5 way?

6 MR. PHILLIPS: I think so.

7 CHAIR ROGERS: Okay. Any questions of
8 Mr. Phillips at this point?

9 Thank you very much.

10 MR. PHILLIPS: Thank you.

11 MR. MILLER: Commissioners, my name is
12 Dan Miller. I represent Manor Downs. My part of this
13 presentation will talk about some of the particulars
14 with respect to the standards that the Commissioners
15 should look at when it evaluates this application for
16 relocation by AJC.

17 First of all, I think most of the
18 Commissioners that have been around awhile, four years
19 ago, approximately, I stood before you and told you that
20 AJC should not even have this license. We still believe
21 that's the case today. AJC acquired this license by
22 purchasing the stock from Judge Morrison in Longhorn
23 Downs. Longhorn Downs, at that point, had been licensed
24 since 1989, but no race ever been run. At the point
25 when AJC acquired the stock, the only asset that exited

1 at that time was the license itself.

2 The Racing Act has a specific provision in
3 it that says licenses are not transferable. It is our
4 position that AJC's acquisition of the stock is the
5 equivalent of the acquisition of a license in violation
6 of the law. And it still stands that way today.

7 Now, we actually filed a lawsuit after that
8 Commission meeting in 2000 when you approved that. But
9 as Mr. Brown has pointed out, their attempts to build a
10 facility at the location on Riverside Drive fell by the
11 wayside pretty quickly. They had an option contract
12 there that terminated because they couldn't get the
13 zoning, nor did they -- nor were they even to come
14 close. And as a result, our attempt to defeat that
15 license really became moot, because they had no location
16 at all shortly after this Commission approved it.

17 This application now for a location in
18 Pflugerville would be the third location, at least, for
19 this license. Yet during that time frame, absolutely no
20 races have ever been run. AJC has now held this license
21 for four years, never running a race.

22 In the meantime, Manor Downs has been in
23 business and running races for many years. And as the
24 Commission knows, and as Mr. Phillips referred to, back
25 in the year 2000 and 2001, Manor Downs was required by

1 this Commission to spend millions of dollars,
2 approaching \$4 million, to expand its oval. It, at that
3 time, seemed inappropriate to us that the Commission
4 would approve a relocation of a license from Round
5 Mountain, I guess it was -- Round Rock, into the Austin
6 market, given that the Commission was requiring Manor
7 Downs to spend millions of dollars to upgrade its oval.
8 That money has now been spent. Thoroughbred races have
9 been run -- thoroughbred races have been run. And it
10 seemed inappropriate then, it seems inappropriate now,
11 even more so.

12 I would suggest to the Commission that one
13 of the -- of course, one of the standards that you are
14 to look at in determining whether or not to approve this
15 is whether it is in the public interest.

16 Now, the public interest standard is not
17 well defined here, although the Commission historically
18 has referred to Section 6.04 of the Racing Act, which
19 outlines 11 different factors that the Commission can
20 look at. In addition, in 6.04A, there is a reference to
21 the fact that it should meet the public interest, it
22 should comply with all zoning laws.

23 First and foremost, I would suggest to the
24 Commission that this application can never meet the
25 public interest, because it makes no sense to have two

1 licensed race tracks, two Class 2 licensed race tracks
2 in the same small geographic area. I don't think that
3 it makes sense to believe that two race tracks can
4 survive in this community. And, therefore, your
5 agreement or your approval of this relocation almost
6 guarantees that one racetrack will not make it. That
7 cannot be in the best interest of the horse racing
8 industry, in my view. And it -- I don't see how it can
9 be in the best interest of the public to do that.

10 In recent years, if one reads the reports
11 published by the Commission, racetrack handle has
12 declined in each of the Class 1 race tracks and at Manor
13 Downs, which is a Class 2 racetrack. And while this
14 market underserved, we are in an era when this industry,
15 as well as many others, are economically depressed.
16 That seems to me add to the difficulties that AJC should
17 face and the burden it should meet when trying to
18 convince to this Commission that this application is in
19 the public interest.

20 Let me talk a little bit about the
21 application, as I see it, and some of the deficiencies
22 that I think are there. First of all 6.04A says that
23 before a license is issued, that all zoning laws should
24 be complied with. They admit they don't comply with the
25 zoning laws. There is no zoning currently at

1 Pflugerville -- were to annex it, they'd have a zoning
2 problem. I think, if I understand it correctly, it
3 would be zoned agricultural, if it were annexed. So
4 they would have a problem and have to get it rezoned.

5 As I understand it, if it is not annexed,
6 the County has already rejected their application for
7 relocation. So they've got some problems in meeting the
8 simple requirement of 6.04A.

9 One of the other -- one of the factors
10 that's in 6.04 that the Commission considers when it
11 grants an original license is whether the -- whether it
12 would conflict with other race meets.

13 This application, on its face, does not even
14 mention the existence of Manor Downs. It does not
15 assert how it will deal with the potential for conflict
16 with race meets.

17 Commissioner Boyd asked the question whether
18 they would actually run quarter horse races. There's
19 no -- nothing in this application, as it has been filed
20 and amended, that can or does attempt to resolve that
21 issue.

22 Another of the factors that's listed in 6.04
23 is traffic flow. A whole lot of people in this room are
24 prepared to talk about that much better than I am. But
25 the original application that was filed with this

1 Commission in August, that has only been recently
2 amended as of last week. Are different in that respect.
3 And in the original application, there was a great deal
4 of misinformation, according to reports that have been
5 filed with the County officials.

6 At any rate, what is clear is that there has
7 been no analysis of traffic flow. For that reason and
8 that reason alone, this application is deficient.

9 No funding has been made for the road
10 improvements. There's no way for this Commission to
11 know that the traffic can be handled.

12 And finally, let's face it, this industry is
13 counting or hoping for slot machines to be passed.
14 They're hoping that slot machines will appear at every
15 racetrack. Well, if that occurs, I would suggest to you
16 there's absolutely no precedent for us to evaluate a
17 reasonable traffic flow here.

18 MS. GIBERSON: Three minutes, Mr. Miller.

19 MR. MILLER: Another factor is financial
20 stability. Now, I have heard and seen a fair number of
21 conclusory statements contained in conjunction with this
22 application about the ability of the individuals to
23 provide the equity funding. I am sure that many of
24 these individuals are financially stout. I hope that
25 they are. But being financially stout and ponying up

1 \$16 and a half million are two completely different
2 things.

3 This Commission required Manor Downs, when
4 it did its track expansion a number of years ago, to
5 prove that it could do it by producing loan commitments,
6 not general letters saying, oh, sure we think they're
7 financially sound, not just the financial statements of
8 the owners. It required proof. I would suggest to you
9 that you should also require proof with respect to this
10 application, if you approve it. I don't see it here in
11 this application, at least it hasn't been available to
12 us.

13 Another alternative to consider that I also
14 find problematic is, these guys were here back in 2000
15 saying they'd do a great facility down on Riverside.
16 They had an option contract there on real estate, just
17 like they have an option contract here on real estate.
18 If this deal goes south, they could come back before you
19 in another four years and say, "Well, Pflugerville
20 didn't work out, how about," I don't know, somewhere
21 else.

22 If you're going to approve the relocation of
23 this license, I would suggest to the Commission that it
24 considers imposing a security requirement, a bond,
25 making AJC commit to completing its facilities on a

1 specific deadline in a specific manner in a way that
2 they can be enforced if failed to do it. You tried that
3 with Manor Downs. You made Manor Downs do what it
4 needed to do. You should do the very same thing to AJC,
5 if you're going to approve a new track in this location.

6 They talk about they don't need additional
7 resources for supplementing purses. They're just saying
8 this. They think they can raise enough money in this
9 marketplace to handle that. But it would be another
10 track in competition with an existing track. There's no
11 history for that, as Mr. Phillips points out.

12 Oddly enough, an application for a new
13 license is required to be under oath. This application
14 is not. It makes it easier for the applicant to say
15 whatever he wants and change his mind if things don't
16 work out. Under a new application procedure, you are
17 precluded from filing an amendment, unless it meets
18 specific criteria contained within the Act and within
19 the rules. Here they amended it last week, as they just
20 desired.

21 MS. GIBERSON: Time.

22 MR. MILLER: One element that's contained
23 within the application is the combination of a loan and
24 a gift from HBPA. I would suggest that the Commission
25 scrutinize that somewhat. Number one, I don't know what

1 that commitment is and whether it's solid.

2 But number two, it really represents a
3 \$2 and a half million loan of which only one-half would
4 be paid back. Now, that strikes me as being a
5 sanctioned approval by HBPA of one track over another in
6 the same geographical area. That does not seem to me to
7 make sense. And by the Commission approving this
8 application with that element of funding, it seems to me
9 that the Commission itself is favoring one track over
10 another.

11 I don't believe that serves the public
12 interest.

13 MS. GIBERSON: Time.

14 CHAIR ROGERS: If you could just kind of
15 finish up. Your time is up.

16 MR. MILLER: I'm prepared to. And that's
17 what I'm sitting here looking at what it is that I
18 haven't already raised.

19 I would say this: I would suggest to the
20 Commission that if we were standing back in 1989, right
21 here, right now, there were no facilities here in Travis
22 County and you had two people come before you and say,
23 "Oh, we each want to build a track, Manor Downs and
24 Pflugerville." You aren't going to approve both. You
25 never would have done it. It would have been

1 inappropriate then, it's inappropriate now.

2 But we've already got a facility at Manor
3 Downs. You should keep the one at Manor Downs, you
4 should reject this application, primarily, because it
5 just fails to meet any of the criteria that this
6 Commission needs to enforce. But secondly, because it
7 doesn't make any sense as a practical matter.

8 I have submitted a letter to the
9 Commissioners which raises a couple of legal issues that
10 I would, again, suggest that you consider, not the least
11 of which is the -- it appears to me that if it's an
12 amendment of a license, which I think this is, that this
13 matter should appropriately be referred to the State
14 Office of Hearings Examiners for the development of
15 evidence.

16 But you didn't do it four years ago, I don't
17 anticipate you're going to do it now. But I think it
18 does provide a legal question as to any action that the
19 Commission takes as a result of this meeting today.

20 CHAIR ROGERS: Thank you, Mr. Miller.

21 MR. MILLER: Do you have any questions?

22 CHAIR ROGERS: Before you go, we may have
23 some questions here.

24 Yes, Commissioner Strayhorn.

25 COMMISSIONER STRAYHORN: This is a point of

1 clarification. Saying that this Commission required you
2 to spend four million to expand the oval at Manor Downs.
3 It's the Racing Act that actually requires a track to
4 have an oval. And there was an exemption for years and
5 then the --

6 MR. MILLER: You are correct, of course. Of
7 course, you are correct.

8 COMMISSIONER STRAYHORN: I just wanted to
9 clarify.

10 CHAIR ROGERS: Any other questions?

11 COMMISSIONER McHUGH: Mr. Chairman, I have a
12 question for Paula Flowerday.

13 CHAIR ROGERS: Yes, Ms. McHugh.

14 COMMISSIONER McHUGH: Paula, before we
15 listen to the testimony today, I wonder if you could
16 clarify for us actually what the Racing Commission is
17 going to apply as the standard for approving or
18 disapproving the application. The posting is for
19 approval or disapproval, I suppose, under 6.14D. That
20 only contains three criteria.

21 MS. FLOWERDAY: 6.14D says that the
22 Commission may amend a racetrack license to change the
23 location of the racetrack if the Commission finds that
24 the conduct of racing of the proposed track in the new
25 location will be in the public interest, that there was

1 not a competing applicant for the original license and
2 that the associations desire to change location is not
3 the result of a subterfuge in the original licensing
4 proceeding.

5 Four years ago when the Austin Jockey Club
6 requested permission to move its license from Round
7 Mountain to Travis County, I expressed the opinion and
8 verified, I guess, to the Commissioners that there was
9 no competing applicant for that original license, which
10 was granted to Longhorn Downs, Incorporated, for Round
11 Mountain. And because of the length of time between the
12 time the original license was issued in 1989 and when
13 this change of location was being presented, that I
14 thought it was reasonable for the Commission to infer
15 that there was no subterfuge in the original licensing
16 proceeding.

17 That's all the statute says. It does not
18 require the Commission to provide notice and hearing
19 before it makes this decision. And it's for that reason
20 that I take -- that I respectfully disagree with
21 Mr. Miller about the need to go to the State Office of
22 Administrative Hearings for an evidentiary hearing. If
23 the statute required you to have notice and hearing
24 before you made this decision, obviously, you would have
25 to go to SOAH for a con -- that would, by definition, be

1 a contested case proceeding under the Administrative
2 Procedure Act.

3 Because our statute does not require prior
4 notice and hearing, that does not meet the definition of
5 a contested case, in my legal opinion. And so,
6 therefore, it is appropriate for the Commission to take
7 action on this request just in an open meeting with the
8 proper posting.

9 With respect to that first criteria that's
10 listed in 6.14D, finding that the conduct of race
11 meetings in this location would be in the public
12 interest. That language mirrors language in
13 Section 6.04. And I brief I apologized that I didn't
14 include it in your packets, but I believe I put in its
15 place a copy of the statutes for you to look at.

16 That public interest language mirrors what
17 is in 6.04 as required findings for the Commission to
18 make when you issue an original license. And so -- and
19 it lists these 11 factors that you can consider. And
20 so, therefore, I think it is reasonable for the
21 Commission to look to those 11 factors. The Legislature
22 has obviously said, "We think these factors are
23 pertinent to making these findings with an original
24 license." And so, therefore, because of that mirroring
25 of the public interest language, I think it's reasonable

1 for the Commission to look to those factors, as
2 Mr. Miller has outlined them -- not as he's outlined
3 them, but those factors that he has outlined.

4 CHAIR ROGERS: Any other questions for
5 Mr. Miller at this point?

6 Okay. Thank you.

7 (Applause.)

8 MR. HISER: My name is Jeff Hiser. I
9 represent Graves Management and I'd like to give a very
10 brief description of who we are as Howard --

11 CHAIR ROGERS: Okay. If -- I think we'll
12 kind of let you do the three-minute rule like we're
13 doing the others, if you would.

14 MR. HISER: Again, I'm Jeff Hiser. I
15 represent Graves Management, which is a local company
16 who is charged with managing the assets of Gordon Graves
17 and his family. You may or may not know of Gordon's
18 history around Austin. He has been in Austin now for
19 the better part of 30 years, off and on, including his
20 education at UT. He got a bachelors and a masters in
21 business administration from UT and went out to start to
22 conquer the world and has done a real good job in that
23 regard.

24 He was the person at one time who was the
25 CEO of the forerunner of G-Tech, who I know you're quite

1 familiar with. Later returned to Austin and was the
2 founder and longtime chairman of Multimedia Games.
3 Multimedia Games or MGam you hear it be refer to it,
4 was, fortunately, graded the number one performer of any
5 NASDAQ listed stock in the year 2001. Not so
6 coincidentally, Gordon was named outstanding Small Cap
7 CEO in America that same year.

8 Gordon resigned from his duties at MGam
9 about a year and a half ago. And my association with
10 him goes back to -- I was a gaming analysis and so I got
11 real close to the MGam story. Over the period of
12 several years, got close to Gordon. And he decided to
13 hire me and bring me to Austin as his personal CFO.

14 Gordon began a dialogue, as Howard alluded
15 to probably, I think, in March or April of '03. The
16 serious negotiations on getting a joint venture or a
17 partnership together with Manor Downs began in January
18 or February of this current year. And as Howard
19 mentioned, we have included that with a letter of intent
20 just very recently signed.

21 We're committed to bringing a quality
22 product out here. I've got a racing background, had
23 thoroughbreds in Chicago 20 years ago, love the game.
24 We want to commit to putting enough money into Manor's
25 grand stand, significantly upgrade the racing product,

1 the plan. And we think we can -- we've got the
2 wherewithal to do it. I'm not patting ourselves on the
3 back, but from our standpoint, regardless how much money
4 we put in this thing, as long as I'm Gordan's CFO, there
5 won't be a dime borrowed, whether it be senior
6 subordinated. This is all going to be equity from
7 Gordon and Graves Management.

8 So I just wanted to introduce ourselves to
9 you folks. And again, any questions you might have
10 about our background.

11 CHAIR ROGERS: Okay. Any questions?

12 Thank you.

13 Okay. At this point, I think we will begin
14 hearing testimony for and against this proposal. As I
15 said, I think we'll go ahead and hear from the public
16 officials first. I actually only have cards on two.
17 They are -- they're County Commissioners. I do not have
18 the Pflugerville representative. So you might want to
19 get me cards on those.

20 FROM THE FLOOR: I turned it in.

21 CHAIR ROGERS: Okay. Maybe they're here and
22 I just don't recognize them yet.

23 If we could hear from Mr. Ron Davis.

24 And if you would, please, sir, if -- and I
25 will speak to everyone who's going to speak. If you

1 could speak clearly, slowly, introduce yourself when you
2 come up, we'd appreciate it --

3 COMMISSIONER STRAYHORN: It's not a
4 requirement we speak slowly, is it, Mr. Chairman? Just
5 kidding, Mr. Chairman.

6 CHAIR ROGERS: You know, being here in
7 Texas --

8 MR. DAVIS: I don't think you realize that I
9 was born and raised right here.

10 CHAIR ROGERS: Yeah, being from Texas
11 that --

12 MR. DAVIS: Born and raised right over in
13 East Austin, so I speak very slow.

14 CHAIR ROGERS: It's not really a matter --
15 it's really not matter of you speaking slowly, I hear
16 slowly. So if you could kind of --

17 COMMISSIONER STRAYHORN: Commissioner, we
18 can average our speaking.

19 CHAIR ROGERS: Go ahead.

20 MR. DAVIS: Mr. Chairman Rogers, the board
21 members of the Texas Racing Commission, I really -- I
22 think a lot has been said on this issue. I can recall a
23 young man calling my office, oh, about -- a little less
24 than about two weeks ago. He may be here. His name is
25 Bruce Woods. And he told me some things that I really

1 wasn't aware of as far as what was going on and how this
2 particular item would come before you on the 22nd of
3 November.

4 Of course, when Mr. Woods told me about this
5 situation up there in Pflugerville, I -- I didn't know
6 that we had to act pretty quickly as far as giving them
7 an opportunity to come before the Travis County
8 Commissioner's Court to express themselves as they did.
9 So we were kind of hard-pressed to get the item on the
10 agenda since the Commissioner's Court meets tomorrow,
11 which is the 23rd, which would be the day after. We had
12 to do something pretty quick. So, of course, we got it
13 on the Commissioner's Court agenda on November the 16th,
14 last week.

15 Of course, this particular site is in my
16 colleague's precinct, which is
17 Commissioner Karen Sonleitner, who is here with us
18 today. And she'll probably have a whole lot of good
19 detailed information for o you as far as some of the
20 roads. You heard the Commission about the underfunding
21 and those things like that. Well, it's very, very true.
22 And you talk about expenditures that somebody is going
23 to have to put -- put some money on the table to make
24 some things happen real positive for a project like
25 this.

1 Of course, not knowing their, per se, and my
2 interest, of course is kind of wide. However, I have to
3 answer to some folks over in Precinct 1 in which I'm --
4 I've been a Travis County Commissioner Precinct 1. I'm
5 just now getting to it. See how slow I am?

6 CHAIR ROGERS: I knew you were going to get
7 there.

8 MR. DAVIS: But anyway. So my constituents,
9 folks in my particular area, have been dealing with
10 Manor Downs, I mean, for quite some time. And since I
11 have been the elected official of Travis County
12 Commissioner, I have never heard not one complaint about
13 Manor Downs. And I asked the question from the Manor
14 Downs officials and representatives at the 16th meeting
15 of November, had they had any complaints. No, they
16 couldn't come up with any.

17 But it was very kind of strange to me when I
18 did ask Mr. Brown, who is with the Austin Jockey Club,
19 in the public meeting that we had last week on an agenda
20 item, not necessarily a public meeting. But I asked him
21 the opposition that was given to him in his organization
22 when they were trying to locate their site in southeast
23 Travis County. Well, of course, southeast Austin at
24 Riverside and 183, which has, of course, access this,
25 access that, roads, all the infrastructure needs were

1 there and all of this kind of stuff. Of course, he --
2 the opposition, of course, was opposed -- was opposed by
3 the folks that live in that area, Montopolis
4 Neighborhood Association, a whole bunch of folks, PODER
5 was one of the groups and things of that. And of course
6 the City, at that time, ended up -- they were selling
7 the property, I think, to build multi-affordable housing
8 there at that site.

9 MS. GIBERSON: Time.

10 MR. DAVIS: So, of course, he didn't
11 actually know why he did this, blah, blah, blah, blah.
12 But this is why we're here today. Because the
13 neighborhoods in that area are oppose them locating
14 there. And there was a reason for that.

15 Now, I don't know what all the reasons are,
16 but it wasn't zoning. They did not want them there. So
17 of course, he -- we went into a little further
18 deliberation, but I'm going to move on to the point.

19 CHAIR ROGERS: Okay. You're --

20 MR. DAVIS: The point is this, that -- and
21 I'm not going to steal Commissioner Sonleitner's thunder
22 on this, because I'm quite sure she's got a lot to say
23 on this. But the point is the infrastructure, the roads
24 that we're talking about, the funding. We have enough
25 at Metro Park that we just -- it's still in the process,

1 some things are still going, but it's been completed to
2 accommodate soccer, accommodate this whole area. We're
3 talking about that. We're talking about a road that's a
4 two-lane road, but we will have a lot of increased
5 traffic. That's what we're talking about.

6 But not only that, we're talking about
7 something that's allowed -- and as far as I understand,
8 as far as an upgrade required for Manor Downs to have to
9 continue to exist, I guess, as a Class 2, but the
10 upgrade of that investment was made. And if you look at
11 your map, it's less than five miles from each other.
12 Less than five miles. That's rock-throwing distance.

13 And so what I'm trying to tell you-all is
14 that, something -- we're opposing it unanimously. The
15 Court -- the Commissioner's Court -- Travis County
16 Commissioner's Court unanimously asked you to reject the
17 application for relocation by the Austin Jockey Club.
18 And I am requesting that you honor the unanimous vote of
19 the Travis County Commissioner's Court on behalf of a
20 whole lot of things that you're going to hear later on.

21 Thank you-all very much.

22 (Applause.)

23 CHAIR ROGERS: I don't want to stifle a
24 little public enthusiasm, but we'll get through this a
25 lot quicker -- I would -- it's pretty easy to tell who's

1 for and who's against as you come up here to speak. So
2 it would be best maybe to kind of restrain that a
3 little. We'd appreciate it.

4 Okay. I do have Pat McCord from the City
5 Council of Pflugerville.

6 MR. McCORD: Good morning, Commissioners.
7 My name is Pat McCord. I'm a 14-year resident of the
8 City of Pflugerville. And I am a six-year City Council
9 member currently serving as mayor pro tem.

10 The City Council unanimously supported the
11 application for the Austin Jockey Club at a public
12 meeting. We see the opportunity for this as a in our
13 common development cycle and it fits well within our
14 entertainment district and the SH-130 and SH-45 corridor
15 development.

16 We're aware of the opposition in the
17 community. It's not the first time that an item has
18 come before the City Council since I've been service that
19 we've seen supporters and opponents in force and in
20 number out there.

21 We do have one significant concern in this
22 whole issue and that is Pecan Street. And I'm going to
23 address that in a little bit. A couple of groups in our
24 community have been very active in our community and in
25 the media. Being a strong supporter of the public

1 process and the public debate, I'm glad. Usually, our
2 City Council meeting draws a crowd of about six or
3 seven. It's encouraging when we have 30 or 40, 50
4 people show up at meetings, even if they are opposed to
5 something we're doing. It's good that they're involved.

6 There have been several petitions, postcard
7 campaigns have been launched recently. But you have to
8 keep in mind, our community is a population of 26,000
9 people, 1,000, 1500 signatures or postcards is not a
10 strong representation of a large percentage of our
11 community.

12 I wasn't able to attend the Travis County
13 Commissioner's meeting last week, but I've read the
14 transcript and I have it with me today. Several of the
15 Commissioners expressed great concern over Pecan Street
16 and the need for improvements in that infrastructure.
17 If I lived on Pecan Street, I'd be concerned about it
18 also.

19 Let me say right now, clearly, Pecan Street
20 is still the responsibility of Travis County. Travis
21 County funded the engineering improvements, but they
22 have not funded the work. As much as it sounds like a
23 Pflugerville problem, Pecan Street is now and has always
24 been a Travis County road and a Travis County problem.
25 They would love for us to annex that problem and hand it

1 over to someone who is going to solve of the
2 infrastructure needs of the city.

3 The Commissioners alluded to the fact that
4 would be irresponsible to build a facility with this
5 much impact on that road, yet they did that exact same
6 thing three years ago. They built a park that
7 regularly, on weekends during the summer, attracts 3,000
8 to as many as 10,000 participants to soccer and other
9 tournaments out there.

10 I have pictures that I will provide to the
11 Commissioners, if possible, of traffic last September
12 4th when there was a medium-size tournament at the
13 Travis County complex. Be happy to give these to you.
14 There are four photos here of traffic coming into
15 Pflugerville, traffic leaving the park, traffic entering
16 the park. Sometimes the traffic backs up two and a half
17 miles and we have to put on extra duty police officers
18 and citizen volunteers to manually control the lights
19 just to deal with the existing problems on that county
20 road.

21 Finally, no matter how much opposition --
22 how much the opposition brings forth today and what
23 they're going to tell you, they're really talking about
24 you and the racetrack operators. We've heard plenty of
25 comments about crime, prostitution, organized crime,

1 gambling addiction, a lot of those things.

2 Ladies and gentlemen, you are the Texas
3 Racing Commission. You're more aware of the activities
4 and behaviors around racing facilities than anyone else,
5 I would think, in this room, let alone the track
6 operators. When they're saying that these things are
7 going to take place and they're going to corrupt our
8 community, they're talking about you. They're talking
9 about you and saying that you're not going to have
10 the ability or the wherewithal to manage that facility
11 and manage these racetrack operators and control that
12 activity.

13 I have been to a number of the race tracks
14 here in Texas. I find them as very attractive
15 facilities. And I don't see the crime and the
16 prostitution, the drugs that they're all going to allude
17 to.

18 MS. GIBERSON: Time.

19 MR. McCORD: We do have concerns in
20 Pflugerville about this. But I think that we also
21 consider that the benefits of this facility far outweigh
22 the concerns and the infrastructure needs will be met.
23 Regardless of what has to happen, Pecan Street has to be
24 fixed. And if we do end up annexing that property, we
25 will take the road over and we'll do what the Travis

1 County people should have done two years ago.

2 CHAIR ROGERS: Yes. Questions.

3 COMMISSIONER STRAYHORN: Thank you,
4 Mr. Chairman.

5 Councilman, when was the last Pflugerville
6 City Council election or bond election?

7 MR. McCORD: We -- we did general bonds --
8 bond election, I guess, is different. We do --

9 COMMISSIONER STRAYHORN: When did you
10 have -- have you had a bond election recently?

11 MR. McCORD: No, we haven't. Not a balloted
12 bond election.

13 COMMISSIONER STRAYHORN: You don't have any
14 idea when the last one was?

15 MR. McCORD: No, I don't.

16 COMMISSIONER STRAYHORN: Anybody have any
17 idea? Anybody from Pflugerville.

18 FROM THE FLOOR: 2001.

19 MR. McCORD: Probably about '99, 2001

20 FROM THE FLOOR: 2001.

21 COMMISSIONER STRAYHORN: I'm sorry, I
22 shouldn't be asking. Mr. Chairman, I apologize, that's
23 inappropriate of me to ask a general question. I'm back
24 to my mayoring days.

25 The -- it was 2001. And your last City

1 Council election was?

2 MR. McCORD: We have -- there's an election
3 for council members every year. We rotate two --

4 COMMISSIONER STRAYHORN: My question to you
5 is: How many people voted in the last City Council
6 election in Pflugerville and how many people voted in
7 the last bond election in Pflugerville?

8 MR. McCORD: Our election turnouts are
9 usually in the low thousands.

10 COMMISSIONER STRAYHORN: The low thousands.

11 MR. McCORD: Yes. Yes, we have a very low
12 turnout.

13 FROM THE FLOOR: Single thousands.

14 COMMISSIONER STRAYHORN: So if there were a
15 petition of 1,000 or 1500 people, it would be a good
16 chunk of those who come out to vote?

17 CHAIR ROGERS: Excuse me.

18 COMMISSIONER STRAYHORN: Please, I'm really
19 directing the question to councilman.

20 CHAIR ROGERS: Yes.

21 COMMISSIONER STRAYHORN: I just want to put
22 a perspective. You had mentioned there are 26,000
23 people in Pflugerville, so the 1,000, 1500 was not much
24 on the petition. I'm saying that's -- being the old
25 home rule city mayor, you require, I can't remember,

1 what is it five percent or 10 percent of those voting in
2 the last election to force a petition or election. So
3 that's a significant number of people is the point I was
4 making.

5 MR. McCORD: I understand that. But I think
6 the supporters, a few of the local businesses and the
7 people that have looked at this in the supporting
8 fashion, they have not orchestrated, stood out on the
9 side of the highway and waved signs asking people to
10 sign petitions. They haven't mailed out postcards, they
11 haven't went to the churches.

12 As a matter of fact, the church that I
13 attend two weeks ago, there was a stack of cards in the
14 back of the church that were cards to be mailed to you,
15 the Racing Commission, that said that you opposed it. I
16 got to church and I asked the leader of my church and I
17 said, "Where are the cards for the people who supported
18 that activity?" I said, "If they're not, I really don't
19 think you're providing a service to the community." And
20 those cards were picked up and thrown away.

21 I admire them for their ability to organize
22 and draw forth a group of signatures on the petition for
23 signature. But at the same time, I think that the
24 entire community is not represented by their opinion.

25 COMMISSIONER STRAYHORN: I recognize the

1 entire community is not represented by their opinion. I
2 also recognize the great democratic process. And I'm
3 just trying to put it in perspective here.

4 One other question. The pictures you have,
5 I'd really like to see that. And this is -- is this
6 when they're going to soccer games?

7 MR. McCORD: This is --

8 COMMISSIONER STRAYHORN: Because I was on
9 that two-lane road this morning.

10 MR. McCORD: That is -- there are six copies
11 so you can pass those out. There are four pictures
12 there taken either from the intersection of Emmanuel
13 Road or taken from the intersection of Cameron -- excuse
14 me, Dessau Road looking in either direction up through
15 the City of Pflugerville and looking out towards the
16 park. And it really depends on the time of day.

17 COMMISSIONER STRAYHORN: I was going to say,
18 when was this?

19 MR. McCORD: These were taken right around
20 noon.

21 COMMISSIONER STRAYHORN: Was there anything
22 particular going on?

23 MR. McCORD: There was a soccer tournament
24 at the county park on the road.

25 COMMISSIONER STRAYHORN: How many people

1 would you think would be going to that soccer
2 tournament?

3 MR. McCORD: We have had a soccer
4 tournament -- or we've had several soccer tournaments
5 that -- this one in particular was a smaller tournament,
6 probably about 150 teens maybe 3 or 4,000 cars.

7 COMMISSIONER STRAYHORN: 3 or 4,000 cars.

8 CHAIR ROGERS: Commissioner Boyd. Do you
9 have a question?

10 COMMISSIONER BOYD: I'd like to ask a
11 question. Is soccer in Pflugerville played all year
12 round?

13 MR. McCORD: There are certain elements of
14 soccer, but this is -- during the summer is when we
15 get the -- at the county park is when we get the large
16 regional tournaments, people from Florida and Louisiana.
17 They come here because of the facility. It's a very
18 nice facility. The park facility very attractive.

19 COMMISSIONER BOYD: So it's select soccer?

20 MR. McCORD: Some select soccer and
21 different --

22 COMMISSIONER BOYD: Some UIL?

23 MR. McCORD: Well, UIL isn't played there.

24 COMMISSIONER BOYD: But mostly select
25 soccer?

1 MR. McCORD: Select soccer.

2 CHAIR ROGERS: The -- I would make a
3 comment. I was on that road this morning, also. And
4 you know, I was impressed by the infrastructure on both
5 sides, not very impressed by the street. I was a
6 astounded at how nice the parks are and noticed that, in
7 all likelihood, with as many fields as you've got,
8 you're going to have a lot more traffic in those parks
9 in this -- in a racing venue. But it would seem to me
10 that that street was woefully underdesigned or underdone
11 presently. So -- for whatever you've got there.

12 MR. McCORD: There were many discussions --
13 I plan on attending the County Commissioner's public --
14 their meeting tomorrow and public comment, bringing
15 forth a few items that were discussed back in the days
16 when the City was being asked about the park and it was
17 being discussed in that location. There were many items
18 then about the location of 130, whether it would be on
19 one side of the park or the other. If you realize there
20 are several routes and that one of them put much closer
21 to the City of Pflugerville. And the most favorable
22 alignment for the County was to have that road 130 to
23 the outside of that park. There were a number of
24 statements made at City Council meetings by County
25 Commissioners that attended our meeting saying that, in

1 addition to Pecan Street, that Wells Branch Parkway and
2 a number of other access points would be developed and
3 encouraged to take the pressure off.

4 The street going down through the middle of
5 the City of Pflugerville in the downtown, the old town
6 area, the only way we can widen that street anymore is
7 to take out sidewalks or take out businesses. It's --
8 that is a finite width. It would be -- it would be
9 difficult to think that, long term, the needs of that
10 park, as it continues to grow and expand, are going to
11 be served by that road alone.

12 Wells Branch Parkway is a solution. There's
13 certainly some administrative hangs-up on that right
14 now. But the City of Pflugerville, this next year, is
15 going to start build our portion of Wells Branch
16 Parkway. We will be waiting for the County to finish
17 their portion. When we're done, it will have a
18 barricade at the end that of road.

19 CHAIR ROGERS: Okay. Just one other
20 question. You are saying here before us that if you
21 annex this, that you're going to develop that road?

22 MR. McCORD: If we annex the road, yes, then
23 it becomes our obligation. We would have to build that
24 road. We would have to work with the landowners nearby
25 and complete that project.

1 THE COURT: Okay. Commissioner Boyd.

2 COMMISSIONER BOYD: One redirect. So is it
3 your opinion that because this is a seasonal problem, is
4 that the reason why it's not been addressed so far.

5 MR. McCORD: I think it's not been done
6 because the County hasn't set aside the funds to do it.
7 I mean, it's -- to have built a park of that size and
8 that magnitude and to continue to develop in that park
9 area, and again, a wonderful facility, but not to
10 recognize the infrastructure needs on their own road, is
11 a bitter response.

12 COMMISSIONER McHUGH: Mr. Chairman.

13 CHAIR ROGERS: Yes. Commissioner McHugh.

14 COMMISSIONER McHUGH: Could you put into
15 context for us what a development schedule would be then
16 for annexation and development of the road of Pecan
17 Street.

18 MR. McCORD: Right now, we have -- we have
19 several items with regards to annexation there. One of
20 those that would conclude in the December time frame,
21 that we would actually make the annexation of that
22 property. And once we do that, we own the road. It,
23 without a doubt, becomes our road. But if we put that
24 off, we would have to start a whole new annexation
25 process, metes and bounds.

1 And I could also bring clarification to one
2 point also that came up earlier in discussion, when the
3 City Council became aware of the Austin Jockey Club and
4 their discussions with Mr. Timmerman, it came up because
5 we saw the imminent issues that were coming up on 130
6 being developed. And that was unannexed property out
7 there along the corridor of SH-130. There are also two
8 MUD districts out there. The City had taken a look at
9 that entire area, realizing that's our only area for
10 expansion. We can't grow further to the north, we can't
11 grow to the south, we can't grow to the west. Our only
12 growth corridor is east. And having 130 there can be a
13 blessing or a curse.

14 The City took it upon themselves to look at
15 an area that took all the SH-130 corridor within our ETJ
16 and made a plan to annex that and then proactively zoned
17 perimeters of that road for commercial and retail
18 development.

19 When we started that activity of the -- the
20 initiation started the annexation, Mr. Timmerman came
21 forward. In the very first meeting, we didn't really
22 even hear about the racetrack then. It was only when we
23 went into the second meeting talking about this
24 annexation that he said, "I have these pieces of
25 property. And oh, by the way, there's this racetrack."

1 That was very -- very shortly after that is when it came
2 to the public process. And up to that point, the City
3 Council, all the way into mid July, we had no knowledge
4 of that.

5 COMMISSIONER McHUGH: Let me stay on this
6 for just a moment. Is there a master plan, then, that
7 you have in place, assuming that the track is approved,
8 that would account for traffic flow and growth in that
9 area?

10 MR. McCORD: When we -- we redid the City's
11 overall development master plan a few years ago, we
12 identified that area out there near the county park,
13 where the racetrack is currently located as an
14 entertainment district. We recognized that with that
15 park there and drawing the crowd that it did, that
16 there was potential for restaurants and hotels and
17 weekend activities out there. And that we would focus
18 some effort there. In order to do that and keep that
19 land from becoming single-family residential homes, like
20 almost all the other property in Pflugerville mentioned
21 does. We said, "This is going to be an entertainment
22 district and we're going to designate this piece of
23 property for this type of activity."

24 And we have talked extensively about the
25 need for expanding that roadway. There are two -- the

1 old-style nonbarricaded culvert bridges on that road
2 that need to be taken out, two-lane culvert bridges,
3 along with other needed infrastructure, drainage and so
4 forth, along that roadway. And we have certainly talked
5 about the need and have done the preliminary studies for
6 what it's going to take to take that road from its
7 two-lane status to a four-lane with a center turn lane,
8 eventually to a six-lane road.

9 COMMISSIONER MCHUGH: Well, does that take
10 into account the racetrack or were these discussions
11 that occurred prior to your knowing about the racetrack?

12 MR. McCORD: We've had discussions about
13 Pecan Street for years. It's way before the racetrack.
14 Again, the pictures here in September were -- that's a
15 problem that's been happening two years now, just
16 related to that alone. And we talked about needs to
17 work on.

18 COMMISSIONER MCHUGH: Somebody else here
19 going to have a clear answer to that question about the
20 access to the track and whether that track's accounted
21 for?

22 Mr. Brown, perhaps you're going to have the
23 answer to that?

24 That is to say, what I'm curious to hear and
25 I think the other Commissioners may be curious to hear,

1 is whether the approval of the track at this location is
2 going to complicate traffic in that area, given the need
3 that already exists to get into the district, so that
4 the traffic jams are going to continue as they are in
5 these pictures.

6 MR. McCORD: Whether the racetrack comes or
7 not, we have to expand and approve Pecan Street. It's
8 already a burden on the community and it has to be
9 improved.

10 COMMISSIONER STRAYHORN: Commissioner,
11 following up to Commissioner McHugh's question, I still
12 want to come back to it, because I haven't heard that
13 answer.

14 CHAIR ROGERS: I'm not sure there is an
15 answer at this moment. I'm gathering that there is not.

16 MR. McCORD: Maybe the City Manager,
17 David Beasley -- he's going to speak later. Maybe he
18 would have a better answer to that.

19 CHAIR ROGERS: Okay. I would ask you one
20 thing about on this proposed location: When I saw the
21 new highway, the 130, it appears to me this location is
22 maybe less than a half mile off that road.

23 MR. McCORD: That's correct.

24 CHAIR ROGERS: So as you improve Pecan
25 Street, that if were the preference, do you think most

1 of your traffic is going to come down 130? Because you
2 do have your city street that -- where the downtown
3 district is that's going to be very difficult to do
4 something with. And I suspect to be very painful to the
5 people who are there and the City Council. But off of
6 the other street -- and I don't know the name of it,
7 6 -- 6 something.

8 MR. McCORD: 685.

9 CHAIR ROGERS: 685. Between it and 130
10 looks like it's about maybe a mile and a half total.

11 MR. McCORD: Yes.

12 CHAIR ROGERS: Is that the area that you're
13 talking about having to redo or are you talking about
14 having to redo down through the downtown, also?

15 MR. McCORD: We're talking mainly between
16 the 685 corridor out to 130. That's the -- that's
17 the --

18 CHAIR ROGERS: So you've got about a mile
19 and a half total infrastructure that you're talking
20 about being a problem.

21 MR. McCORD: Probably a little more than
22 that. Yeah, that's pretty close.

23 CHAIR ROGERS: Okay.

24 MR. McCORD: And we do think -- to answer
25 the first part of that question, think that people

1 coming to that facility, we are able to be taught and
2 learn things. Anybody who is experienced the downtown
3 Austin traffic coming from the south to the north, in
4 the future, has an option to get on 130 to get to their
5 location will take that. There's no denying that people
6 locally within our interior corridor, they're going to
7 take the roads that they're familiar with and
8 knowledgeable of. And that's going to bring people
9 through Pflugerville on our Pecan Street corridor.
10 Wells Branch Parkway will help relieve that and other
11 roads. East-west roads will help relieve that in the
12 future, but the majority of people, I think, would
13 choose 130 after they've experienced Austin downtown
14 traffic once or twice.

15 CHAIR ROGERS: Well, the road, the way I
16 observed it is a real problem, although I -- it would
17 appear to me that there's less people going to be at the
18 biggest day at the track than what you have on a pretty
19 good day in your soccer fields. So I think the two
20 combined create a real problem if they're at the same
21 time.

22 MR. McCORD: If they are at the same time,
23 that would be a big problem, yes.

24 CHAIR ROGERS: Yeah. Okay. If there aren't
25 any other questions here, I think we're going to take

1 about a five-minute break and then we will come back and
2 hear more testimony.

3 I would, before we break, I would like to
4 say to you, we really want to hear everybody's input
5 here. And as we do that, if you would refrain from
6 answering from the crowd or from showing applause,
7 either side here, it would probably be helpful to
8 everybody involved.

9 MR. McCORD: City Council, although an
10 elected position, it's also a volunteer position. I
11 have another job that I have to go to, so I'm going
12 to -- although I expected today to be lively, I'm not
13 going to able to stay for it.

14 CHAIR ROGERS: We're through. Thank you
15 very much. We'll take a five-minute recess.

16 (Brief recess.)

17 CHAIR ROGERS: Okay. We're going to call
18 this back to order. And with a good buzz.

19 Commissioners, we've been told that as
20 you -- Commissioners, we've been told that as you speak,
21 if you would speak further into your microphone. Some
22 of the people up here are having a hard time hearing.

23 For those of you coming back in, I think
24 we're doing a little something with the temperature, you
25 could hang meat up here. I don't know how it is back

1 there, but we're going to work toward getting it a
2 little bit warmer.

3 I think we've got a little problem, because
4 if you talk into the microphone and one gets closer than
5 the others, then they buzz. So I think it's -- mine is
6 the problem and I'm going to move it back a little and
7 hope that you can hear.

8 Okay. At this point, I think we will hear
9 from Commissioner Karen Sonleitner. And I think I'll
10 give you the names of the next two or three people so
11 that you can be prepared. If you don't mind,
12 Ms. Sonleitner. On those that I think we will hear from
13 Mr. Beusing, then we will hear from Ms. Jamison and then
14 Mr. Spelling, Mr. Brockhausen maybe and Ms. Cross. So
15 if you will prepared to come next.

16 Go ahead, please.

17 COMMISSIONER SONLEITNER: Good afternoon, my
18 name is Karen Sonleitner. I am a Travis County
19 Commissioner. And I have been Travis County
20 Commissioner representing the Pflugerville area for the
21 last 10 years. And I greatly appreciate the courtesy in
22 terms of dealing with the elected officials.

23 As you have in your packet and as you heard
24 from Commissioner Davis, the Travis County
25 Commissioner's Courts on a five-to-zero vote opposes the

1 application that is before you. I am going to stick my
2 comments to the jurisdictional issues that Travis County
3 must comment on.

4 As you have heard repeatedly, this fronts a
5 two-lane country road, a county road. And there is no
6 funding in place from either the City of Austin, Travis
7 County, nor the State of Texas to deal with this roadway
8 project. We happen to believe that the cost of the
9 rebuild of this project is closer to \$7 million, not
10 \$4 million. That is a large amount of money.

11 And while Mr. Brown has told you that they
12 were doing due diligence in talking to people out in the
13 area, where they failed to talk with anyone is the
14 Travis County officials. You would think that they
15 would come to talk to the County Commissioner out in
16 that area, who is very used to dealing with folks who
17 are looking at a piece of property either for an
18 industry or some kind of a project, to try and get a
19 heads up as to what they think are the jurisdictional
20 issues, the political issues, and certainly the
21 infrastructure issues.

22 If they had bothered to ask me about Pecan
23 Street, I would have told them very clearly what the
24 challenges are relating to Pecan Street. They did not.
25 The first time I heard about this project was on August

1 the 2nd. And I have very clear notes about when Travis
2 County was informed on this. We scheduled, immediately,
3 since this was coming up to the Racing Commission. And
4 we had no reason to be checking with the Racing
5 Commission to see what was coming up. We scheduled an
6 emergency item. And Mr. Brown, after meeting with
7 Travis County, chose to pull down his application
8 because the kind words that I have been using is that
9 their application was incomplete related to the roadway.

10 You can imagine our disappointment and
11 shock, as of last week, a week ago, when we made
12 inquiries to the Racing Commission to find what we
13 thought would be an updated application has been filed
14 with you all that would clearly address the issue that
15 Travis County brought to Mr. Brown and other's attention
16 related to Pecan Street.

17 The application had not changed. And it is
18 only when Travis County made inquiries to Mr. Brown and
19 through his lawyer that we wound up finding out that,
20 oh, indeed they were working on an amended application,
21 which we got late last Monday afternoon, in time for our
22 Commissioner's Court meeting.

23 In it, Mr. Brown does acknowledge that there
24 is a problem, a serious problem with Pecan. But there
25 is no commitment in that amended application. He has

1 not made any kind of commitment other than, he pledges
2 to cooperate.

3 You have heard this morning references to
4 Wells Branch Parkway. Wells Branch Parkway is a
5 reliever road -- an east-west reliever road is a line on
6 the map. The City of Austin has no plans to expand
7 Wells Branch Parkway east of Interstate 35. Travis
8 County has run into a road block, quite literally, with
9 two landowners who absolutely refuse to deal. Even
10 though that we have dollars in place to build that road
11 in conjunction with private entities, we've got a
12 roadblock. The City of Pflugerville, I'm glad to hear,
13 has finally got through their issues, but they, also,
14 were being blocked by landowners and not moving ahead
15 with Wells Branch Parkway.

16 You've heard a reference to Pfenning Lane as
17 being a reliever route that will get people up to SH-45.
18 Pfenning Lane, in this area does not exist. It is a
19 road that could does not exist today. SH-45, SH-130,
20 these are roads that will not be completed until 2007.

21 Also, because of the huge infrastructure
22 issues related to going over Pecan and Cameron, Pecan is
23 going to be shutdown for approximately a year to a year
24 and a half to the east so that Lone Star infrastructure
25 can do their business.

1 MS. GIBERSON: Time.

2 COMMISSIONER SONLEITNER: That has not been
3 talked about.

4 MS. GIBERSON: Time.

5 COMMISSIONER SONLEITNER: Pecan has been
6 clobbered. It has been clubbed to death. And
7 Mr. McCord knows darn well why this was not put in
8 County bond elections. It wasn't ready to go.

9 In 1997, we didn't even know where SH-130
10 was. That was one of the first bond elections Travis
11 County had in 13 years.

12 In 2001, when we finally did know where
13 SH-130 was going to go, we put in a half a million
14 dollars for the planning and engineering for this
15 roadway. But the reason we didn't put the money in
16 there for the construction is because it was going
17 through raw land. We do not build roadways or upgrade
18 roadways for private land speculators. They are
19 expected to bring money to the table. They are expected
20 to bring right-of-way to the table. And that simply had
21 not been done. So we were working on other Pflugerville
22 projects in the 2001 bond issue.

23 This applicant summed it up the best. He
24 cannot have a track, a viable track on a two-lane county
25 road. That is what he told us last Tuesday. We happen

1 to agree with him. So, please, do not make this
2 location change go through.

3 One final point, there are a great many
4 things that the City of Pflugerville and Travis County
5 agree on and work diligently together upon. But there
6 are times that we respectfully disagree with one
7 another. One of the things that we disagreed on was
8 where SH-130 ought to go. They thought to it ought to
9 be on a more western route, closer to neighborhoods,
10 closer to schools, closer to parks. Travis County took
11 a more regional view as to where that roadway ought to
12 go and the eastern route, indeed, was the one that was
13 chosen.

14 If Mr. Brown thinks that by slapping one
15 more piece of activity on that roadway is going to speed
16 things up, I urge you all to remember what happened with
17 Bergstrom International Airport. The airport was put on
18 the ground before the infrastructure was in place. And
19 what that shows here is the naiveté of Mr. Brown and
20 others thinking somehow that will pressure those in
21 power to do what is necessary. What he is failing to
22 understand is that Pecan Street is one road of 1200
23 miles of roadway that Travis County is responsible for.
24 We have a great many other things that are -- that are
25 competing for dollars.

1 So it will not help matters if you approve
2 this track without the infrastructure already being
3 committed to and in place.

4 And Mr. McCord, when he says that they
5 intend to annex the road, that is not what we have heard
6 about. It doesn't just go with the land, unless they
7 are annexing the land both on the north and the south
8 side. Travis County believes that the worse scenario
9 that could happen here is that the land gets annexed
10 into Pflugerville and they leave the road to Travis
11 County and Travis County taxpayers to upgrade. And we
12 are not going to put that on a bond reelection without
13 the full participation, not only of this particular
14 track, but everybody else along that roadway.

15 So again, five to zero, Travis County
16 Commissioner's Court opposes this move of this
17 particular location.

18 Thank you.

19 CHAIR ROGERS: Thank you. Are there any
20 questions?

21 Thank you very much.

22 Okay. Mr. Beusing.

23 MR. BEUSING: My name is David Beusing. I'm
24 City Manager of Pflugerville. I'm here on behalf of the
25 mayor, who was not able to make it. She's at work. She

1 asked that I bring you this. And also, you have an
2 original letter that's been provided to you from the
3 City Council. And I'd like to read this letter. It's
4 dated November 18th.

5 "Regarding the support of the Austin Jockey
6 Club application for a change in racetrack location.

7 "Following a significant public comment,
8 discussion and consideration at three City Council
9 meetings, the City Council of the City of Pflugerville
10 voted, on October 26th, to support the application of
11 the Austin Jockey Club to change the racetrack location
12 to the proposed Pflugerville location on East Pecan
13 Street, just east of the city limits of Pflugerville.

14 "The City Council of the City of
15 Pflugerville recognizes that traffic congestion on this
16 section of East Pecan Street is a problem and would
17 continue to be a problem with or without the development
18 of the horse track. It is evident that the roadway is
19 inadequate to serve the current traffic demands of the
20 Travis County Northeast Metropolitan Park and that the
21 two-lane county road should have been improved and an
22 additional park entrance constructed prior to the
23 opening.

24 "With or without the development of the
25 horse track, it is necessary for the roadway to be

1 improved to facilitate the current traffic demands, as
2 well as the traffic future demands impending the
3 operating -- or the opening of State Highway 130.

4 "The City Council of the City of
5 Pflugerville has considered both arguments for and
6 against the proposed development of the horse track at
7 this location and respectfully ask the Racing Commission
8 to approve the application by the Austin Jockey Club to
9 change its racetrack location to the proposed
10 Pflugerville location east of Pecan Street."

11 Thank you. Sincerely Catherine T. Callen,
12 Mayor.

13 I do have some of the answers that some of
14 you have asked, maybe not complete. One answer was
15 about the traffic. I saw some traffic numbers where
16 they compared with Retama, their traffic numbers. I
17 don't have those numbers with me.

18 I also saw some numbers that we looked at
19 when we saw that those 220 acres, if they were developed
20 in single-family housing, that's roughly 798 houses.
21 That would generate, using the standards that they go
22 by, much more traffic than what Retama in Selma does at
23 this time. I don't have those numbers available with
24 me, so I don't have it. So I can't tell you the exact
25 numbers. But the houses that they would actually put on

1 those 220 acres is much greater than the racetrack.

2 Is there any other questions?

3 CHAIR ROGERS: I have one. You -- there's
4 been a question about whether the City has actually
5 committed to -- in their annexation move, are they
6 committed to annexing both sides of that road and the
7 road that the County Commissioner was talking about
8 or --

9 MR. BEUSING: We are looking at different
10 options or opportunities. We see this as an opportunity
11 to actually not just talk about the road being built,
12 but actually getting it done, because the landowner who
13 owns the racetrack area also owns the land on the same
14 side of the road. So we're viewing this is an
15 opportunity to actually build the road and quit talking
16 about the needs that that road should have been built.

17 You know, you've heard testimony about the
18 airport was dropped down ahead of time. So was the
19 soccer fields. It should have been road first, soccer
20 fields later.

21 We need to do something about that road. We
22 need it there for 130. When 130 comes through, we're
23 going to need this road. And we're progressing as fast
24 as we go can to get this accomplished.

25 The annexation, there's a very good chance

1 that that area will be annexed on December the 14th by
2 the City of Pflugerville. It has already began going
3 through our zoning process, planning and zoning.

4 CHAIR ROGERS: Okay.

5 COMMISSIONER McHUGH: I have a question,
6 too.

7 CHAIR ROGERS: Commissioner McHugh.

8 COMMISSIONER McHUGH: What's your time table
9 for improving the road?

10 MR. BEUSING: Frankly, we entered into
11 agreement with Travis County engineering it. We paid
12 for our portion that is in the City. And they are
13 having the engineering done on that part of it -- of the
14 roadway. So I'm hoping that we -- when they finish the
15 engineering, we can actually begin on it fairly quick.
16 What is fairly quick? When you're building a road,
17 nothing is quick, so I can't give you a good answer on
18 that.

19 COMMISSIONER McHUGH: And the funding?

20 MR. BEUSING: We're hoping to find a lot of
21 that out of the developer. And as, you know, the
22 racetrack commission -- the racetrack, the folks putting
23 it out, they really haven't said for sure how much they
24 were going to contribute, but we're certainly hoping
25 there will be a certain amount of that, also.

1 CHAIR ROGERS: Commissioner Strayhorn.

2 COMMISSIONER STRAYHORN: City Manager, so
3 you've got -- it's approved for engineering work, but
4 there's no money to build it.

5 MR. BEUSING: At this time, that's correct.

6 COMMISSIONER STRAYHORN: What if you have an
7 annexation plan -- do you have -- I don't know how you
8 operate. But short-term, long-term where everyone can
9 see. And when you say annex on December 14th you're
10 talking about this site here, you're not talking
11 about --

12 MR. BEUSING: That's correct, full
13 annexation.

14 COMMISSIONER STRAYHORN: Not anything beyond
15 that. Any plan --

16 MR. BEUSING: We're talking about -- we're
17 looking at annexing some 2000 acres east of
18 Pflugerville. And it includes this site, yes.

19 COMMISSIONER STRAYHORN: On December 14th?

20 MR. BEUSING: Yes, ma'am.

21 COMMISSIONER STRAYHORN: Is there a plan for
22 annexation that is available for citizens to see beyond
23 that or is that it at this point?

24 MR. BEUSING: We have some other annexation
25 plans, but not that deals with raw land, as this one

1 does.

2 COMMISSIONER STRAYHORN: Roadway the other
3 side.

4 MR. BEUSING: And we do have some plans for
5 drawn in where Pfenning Lane does crossover and crosses
6 over --

7 COMMISSIONER STRAYHORN: And any of those --
8 I mean, is this an annexation plan adopted by the
9 Council or approved by the Council or is it just
10 discussions?

11 MR. BEUSING: We're going through the public
12 comment section right now.

13 COMMISSIONER STRAYHORN: And could you go
14 back and pick up that resolution. Would you go back and
15 read one part of that for me, sir?

16 MR. BEUSING: Yes, ma'am.

17 COMMISSIONER STRAYHORN: I thought I was
18 hearing it right. It starts out where, "It's evidence
19 that a roadway is inadequate." Could you read that for
20 me?

21 MR. BEUSING: "It is evident that the
22 roadway is inadequate to serve the current demands of
23 the Northeast Travis -- or the Travis County Northeast
24 Metropolitan Park and that the two-lane county road
25 should have been improved and an additional" --

1 COMMISSIONER STRAYHORN: That's the point I
2 wanted right there. The two-lane road what? Read that
3 slower.

4 MR. BEUSING: Needs to be improved. The
5 two-lane county road should have been approved --
6 improved. And that was prior to -- she's trying to say
7 prior to even the park being built out there.

8 COMMISSIONER STRAYHORN: I --

9 MR. BUESING: We need --

10 COMMISSIONER STRAYHORN: I understand that.
11 So they're saying prior to that parking there, they
12 should have had that two county road improved?

13 MR. BUESING: The gentleman that --

14 COMMISSIONER STRAYHORN: So would you think
15 prior to a racetrack you should have that approved?

16 MR. BEUSING: We need something done on the
17 road. If we are able to achieve some of that funding by
18 having a racetrack out there or by the developer, it
19 needs to be done. We really -- it has to be done. That
20 road needs major improvement.

21 COMMISSIONER STRAYHORN: But at this time,
22 there is no funding for it?

23 MR. BEUSING: Other than the engineering.

24 COMMISSIONER STRAYHORN: No funding to build
25 it?

1 MR. BEUSING: That's correct.

2 COMMISSIONER STRAYHORN: From any source?

3 MR. BEUSING: We're looking at
4 possibilities.

5 COMMISSIONER STRAYHORN: But at this time,
6 there's no funding appropriated for this?

7 MR. BEUSING: No, ma'am, we don't have the
8 dollars in our pocket.

9 COMMISSIONER STRAYHORN: Thank you, sir.

10 CHAIR ROGERS: Any other questions?

11 Thank you, Mr. Beusing.

12 Ms. Jamison.

13 MS. JAMISON: Commissioners, thank you for
14 the opportunity --

15 CHAIR ROGERS: Ms. Jamison, I'm sorry,
16 before you begin. Let me say that up until this point
17 we've been real lax on the three-minute rule because
18 they've all been public officials and there was a good
19 chance that we'd be asking a considerable number of
20 questions to those.

21 At that this point, either for or against,
22 we're going to hold pretty strictly to the three-minute
23 time frame.

24 Go ahead, Ms. Jamison.

25 MS. JAMISON: Thank you for allowing me to

1 speak today. I am Barbara Jamison and I moved to
2 Pflugerville from West Austin about seven years ago,
3 following two of my married children and seven
4 grandchildren out there, so that we could live close to
5 them in our retirement and live in a community that we
6 felt, from all the realtors that we talked to, was a
7 place that was a great place to raise families. And we
8 have found it to be so.

9 When we bought our home, we had pasture land
10 behind us for as far as we could see seven years ago.
11 Realtor said, "Oh, it will always be pasture.
12 Mr. Pfluger is never going to sell that land." Now,
13 it's subdivisions as far as we can see. Seven years.

14 In the last five years, we've got
15 subdivisions all the way to Round Rock to Louis Henna.
16 And that's Pflugerville now.

17 Seven years ago, Pflugerville was a tiny
18 little farming community. And people have come from all
19 over the nation with high tech jobs to live in
20 Pflugerville, Texas. And the realtors have brought them
21 there because it is a family community and because it's
22 a great place to raise children. And I can attest to
23 that.

24 We do not want a racetrack in Pflugerville.
25 We have traffic now that we can't get in and out of the

1 City, since I've lived there for seven years. We've had
2 Dessau Road and Cameron come through behind us that
3 gives us access to Austin. Otherwise, we are still in
4 the same place. We have a little back road that we can
5 take to Wells Branch and get out onto the highway and we
6 have Pecan Street and that's it. And we just deal with
7 the traffic.

8 Those of us who love Pflugerville, we don't
9 like the traffic, but we're in Pflugerville because we
10 love Pflugerville and not because we like the traffic.
11 We moved from Austin because of the traffic, a lot of
12 us.

13 If this is an entertainment spot, which many
14 of us in Pflugerville, 95 percent of us, are just
15 finding out about all of this in the last month or so.
16 If this is an entertainment spot, we would like family
17 entertainment in that area. There are plenty of things
18 that can be brought there that will draw families. I'm
19 not taking my grandchildren to a racetrack.

20 Our family goes back generations in Austin,
21 Sprinkle and Oak Hill. We have ancestors who settled
22 those areas. And we are not willing to change the
23 community that we have moved to to raise our family.
24 If -- and our grandchildren.

25 If we have several years yet before I-30

1 (sic) is going to be a corridor that will draw people,
2 then we have time to look for something else that will
3 be the in keeping with the superior atmosphere of
4 Pflugerville. We don't need to settle for the first
5 thing that comes along, which is what we would be doing
6 with a racetrack. Let's us look at some more options.
7 Let the people of Pflugerville vote and make their
8 voices known.

9 I have canvassed my area, my neighborhood.

10 MS. GIBERSON: Time.

11 MS. JAMISON: I have stood in front of
12 stores and handed out fliers and petitions. I have
13 walked to my neighborhood. Ninety-five percent of the
14 young families who have moved to Pflugerville from all
15 over the nation have no idea that we are getting ready
16 to have a racetrack in Pflugerville. And the ones that
17 I've talked to, by very large are opposed to it. So I'm
18 speaking to my two children who have grown and raised
19 their families there and many others that I work with
20 every day in my responsibilities, we do not want a
21 racetrack in Pflugerville.

22 Thank you.

23 CHAIR ROGERS: Thank you.

24 Mr. Spellings.

25 MR. SPELLINGS: Mr. Chairman and

1 Commissioners, thank you for allowing me to speak to you
2 today. My name is Robert Spellings. I'm an attorney
3 and partner in the firm of Gardere Wynne and Sewell.
4 I'm an administrative regulatory attorney. I also
5 lobby. I represent people all over State government.
6 But a big part of my practice is representing people
7 with the Texas Legislature.

8 I have represented the Austin Jockey Club
9 for about -- well, since they -- actually, since they
10 formed a partnership or shortly thereafter. And most of
11 the work I have done has been in the legislative arena.
12 I hadn't really been a part of this process
13 administratively. They've had other people doing that
14 work, but I can't help but make a few comments about
15 what I've heard today.

16 First of all, from where I'm sitting and
17 what I've heard, there seems to be a real conflict going
18 on between Pflugerville and Travis County as to Pecan
19 Street. And there's no question that's relevant.
20 There's no question that's relevant here in this
21 Commission hearing and there's no question that
22 everybody that's here that wants to propose or object to
23 this racetrack has every right to do so.

24 But this has -- I don't think there's any
25 question that this client of mine has certainly not

1 tried to diminish or in any way disrupt the democratic
2 process. Karen Sonleitner and myself, I heard myself
3 and I have the highest respect and regard for her. I've
4 known her a long time, she's a great public servant.
5 She said she knew about this on November the 4th. The
6 first Commission hearing was on November the 14th.

7 COMMISSIONER SONLEITNER: August 2nd.

8 MR. SPELLINGS: Was it August 4th?

9 COMMISSIONER SONLEITNER: August 2nd.

10 MR. SPELLINGS: August 2nd, I'm sorry. I
11 knew that. I said it wrong. August the 2nd.

12 And we had an August 14th hearing,
13 October 26th hearing, I believe. But it's not as if the
14 Jockey Club or anybody else associated with the Jockey
15 Club has tried to hide anything from anybody about what
16 our plans are. Maybe we should have gone to the *Austin*
17 *American Statesman* or some newspaper and issued a press
18 release, but we didn't do that.

19 I'm going to agree with the Commissioner. I
20 think Austin Jockey Club should have gone to the
21 Commissioner's Court. But quite frankly, the
22 Commissioner's Court operates that the Legislature has
23 given that entity very defined, limited authority to
24 operate under the law. They have every right to have a
25 hearing on our application, but I believe that

1 Mr. Miller said that they rejected our application.

2 We actually made no application to the
3 Commissioner's Court. There's no reason for us to make
4 an application to the Commissioner's Court. I think
5 what they did was act on our application that we have
6 here in front of you people, which is -- I'm not
7 suggesting that they shouldn't have done that or
8 certainly had the authority to do that. And they had
9 all the authority to -- to make their wishes known in
10 front of this Commission. But to imply that we are in
11 some way lax because we didn't go to the Commissioner's
12 Court in some public proceeding and make our case there,
13 I suggest to you that we probably should have, we may
14 have missed the boat, but we didn't miss any legal boat.
15 And we didn't do anything untoward as it relates to the
16 approval of this application -- I mean, the application
17 for location.

18 MS. GIBERSON: Time.

19 MR. SPELLINGS: Time, did you say?

20 COMMISSIONER STRAYHORN: Yes.

21 CHAIR ROGERS: Yes, Ms. Strayhorn

22 COMMISSIONER STRAYHORN: This comes off my
23 time, not yours, Mr. Spelling.

24 Go back through the application thing. And
25 I may need to redirect Commissioner Sonleitner or

1 something, but I heard her say that Mr. Brown filed a
2 application with the Travis County Commissioners and
3 then pulled back that application and refiled the
4 application. They were doing that just to be doing it,
5 not that they needed to do it.

6 MR. SPELLINGS: Well, that application may
7 have had something to do with the roadway.

8 COMMISSIONER STRAYHORN: That's what I
9 understood it everything to do with was the roadway. So
10 I didn't understand what you're saying when you said
11 there's no legal reason they have to go to Travis
12 County.

13 CHAIR ROGERS: We may want to get
14 Mr. Brown's take here. I heard that just slightly
15 differently. I heard that they saw the application that
16 came here. But they weren't acting on it.

17 MR. SPELLINGS: The point I was trying to
18 make, it appeared we made an application, as it relates
19 to this move, to the Commissioner's Court. We simply
20 didn't do that. We may have dealt with the
21 Commissioner's Court on other matters.

22 COMMISSIONER STRAYHORN: I thought the
23 application related to roadways. But anyway --

24 MR. SPELLINGS: If I may make just one last
25 point. I know Gordon Graves, I know media -- Multimedia

1 Corporation. And I would speak to the fact that we have
2 pending in the Legislature -- and everybody knows
3 this -- a -- a way, at least, they -- the media has
4 presented as a way to solve some of the financial
5 problems of the State of Texas. And that's VLT's at
6 race tracks.

7 Now, that's part of this process, whether
8 it -- I mean, it doesn't have anything to do with what
9 you guys are acting on today, but it's out there. And
10 the Commission ought to be aware that of that.
11 Multimedia Games doesn't have a contract, in my opinion,
12 but they've got a contract that's predicated on whether
13 or not BOTs is passed or going to pass. Once BOTs are
14 passed, these application have a different status, if
15 you will, in the market -- in the economy, even with the
16 State of Texas.

17 You guys are going to be given a lot of
18 authority and a lot of responsibility if that -- in my
19 opinion, if something like that passes the Legislature.
20 You're going to have to probably come back and revisit
21 some of these licenses. But it doesn't really have
22 anything to do with what is before you today, in my
23 opinion.

24 Again, I appreciate you letting me speak to
25 you. If I can answer any questions or provide any other

1 information, I'd be happy to.

2 CHAIR ROGERS: Okay. Mr. Spelling, you
3 might stay just a moment while we clear this other
4 issue.

5 COMMISSIONER STRAYHORN: I'd like to hear
6 from the others, too.

7 COMMISSIONER SONLEITNER: Say probably the
8 same thing. I apologize if we have not been precise
9 enough with our language. When we talked about the
10 Commissioner's Court opposing the application, we mean
11 the application to the Texas Racing Commission. They
12 have not made any kind of an application to Travis
13 County to go through our development process, yet, which
14 they would be required to do if this stays in our
15 jurisdiction and it is not annexed by the City of
16 Pflugerville, because it's the assemblage of two pieces
17 of property and a carving off of other property that
18 Mr. Timmerman owns to create this 200-acre site.

19 So if it says in our jurisdiction, they will
20 have to come through the subdivision process and meet
21 Travis County development regulations. And they
22 absolutely will have to address the issue of the road.

23 I hope that's helpful.

24 CHAIR ROGERS: Okay. Thank you, Mr. Brown,
25 do you have anything to add to that?

1 MR. BROWN: I just wanted to kind of answer
2 the Commissioner's question. And that is, when we --
3 the application that we filed, that I referred to, is
4 the application for the August 14th Racing Commission
5 meeting.

6 Now, the same application as today, which
7 has been updated. That application was delivered to the
8 County at Commissioner Sonleitner's request. They
9 reviewed it. They came up with some issues. And given
10 those issues -- and most of them dealt with Pecan
11 Street. There are some other issues that we felt were
12 important enough to visit with and work with the County
13 before we came to the Commission. So we pulled the
14 application from the Racing Commission for the
15 August 14th meeting.

16 Is that clear enough?

17 COMMISSIONER STRAYHORN: Thank you, sir.

18 CHAIR ROGERS: Thank you.

19 MR. HISER: And just a quick point of
20 clarity regarding Mr. Spelling and anybody else.

21 MS. GIBERSON: Would you state your name?

22 MR. HISER: Jeff Hiser. Multimedia Games
23 has absolutely nothing to do with this, whatsoever,
24 financial or otherwise. You know, Gordon has long since
25 retired from them. This is Graves Management. There's

1 no financial input whatsoever from Multimedia Games.

2 CHAIR ROGERS: Okay. Thank you. Any other
3 questions of Mr. Spelling?

4 Okay. Thank you.

5 MR. SPELLING: Thanks again, sir.

6 CHAIR ROGERS: Okay. I believe that we
7 have -- and I'm sorry, I apologize for not being able to
8 read this name, but I think it's Brockhausen, maybe.

9 MR. BROCKHAUSEN: Brockhausen.

10 CHAIR ROGERS: Brockhausen.

11 Okay. Mr. Brockhausen, if you would address
12 us, please.

13 MR. BROCKHAUSEN: My name is
14 Dean Brockhausen. And I have been a resident in
15 Pflugerville for four years, although I grew up in
16 Texas.

17 We oppose the racetrack. We think that the
18 traffic concerns are very, very real. I think that the
19 Austin Jockey Club has a tendency to underplay those
20 concerns because they want the track there.

21 I also think that -- that the haste with
22 which this has gone through the City of Pflugerville is
23 undue. We first heard about it on October 12th. And
24 that was when the Austin Jockey Club was asking for a
25 variance so they could move forward with their plan

1 without being annexed.

2 Since then, I've been very active in my
3 community, among the people I know, but I also the many
4 people that I don't know in asking them what their
5 opinion on the track is. Most of the people I talk to,
6 I would say 75, 80 percent of people I talk to do not
7 support the track under any conditions. Regardless of
8 how much money the people say it might bring or won't
9 bring in, they really don't think that it fits in with
10 the family community of Pflugerville.

11 I think that -- I was astounded, I wish
12 Pat McCord was here so I could disagree with him. I
13 think it's astounding for someone to say that 1500
14 signatures isn't a substantial community statement when
15 there are 600 people voted in the last mayoral election.
16 I think that -- that just astounds me. I'm almost
17 speechless after that comment.

18 In the end, the vote lies with you. I pray
19 that you will pay attention and read -- take all the
20 sides of it. We want a good decision. But we oppose
21 it, absolutely.

22 Thank you very much.

23 CHAIR ROGERS: Yes. I just have one
24 question. When you say, "we," is that you or do you
25 represent --

1 MR. BROCKHAUSEN: I represent me. I
2 represent the rest of my family as well. I don't
3 officially represent anyone else.

4 CHAIR ROGERS: Okay. Thank you.

5 COMMISSIONER CARTER: Could I ask him a
6 question?

7 CHAIR ROGERS: Please.

8 COMMISSIONER CARTER: When you asked -- you
9 said 75 to 80 percent of the people you asked were not
10 in favor of a racetrack. Did you ask how many of them
11 have ever been to a racetrack? Did you ask that
12 question?

13 MR. BROCKHAUSEN: I've asked that question
14 of some of them, certainly. I've asked that question to
15 all of them.

16 COMMISSIONER CARTER: How many of them have
17 been to the racetrack that oppose it?

18 MR. BROCKHAUSEN: I suppose most of those as
19 well. I mean, when I wasn't living in Texas in the
20 brief time when I was exiled from the State, I lived in
21 Seattle. Raising is also there. So I have seen -- I
22 have not been. My wife's family has been to race
23 tracks, so I'm fairly familiar with racing as a whole.

24 COMMISSIONER CARTER: Thank you.

25 CHAIR ROGERS: Thank you.

1 Ms. Cross.

2 MS. CROSS: I'm going to speak fast so I can
3 get in my time. But for the record -- just so you know,
4 I play women's Division 1 soccer. We play off the
5 Northeast Metro field. And I just thought I'd let you
6 know, because you did have a question earlier, soccer
7 season runs from January to June and from August to
8 November. And it's only the professionals that are --
9 not professionals. I can't think of them, but once you
10 get higher in the national and regional and things like
11 that, it moves on into the summer. But those are the
12 seasons.

13 Okay. I'm opposed to the racetrack coming
14 to Austin. I was opposed because, really, up until
15 today, I hadn't seen a lot of proof, a lot of answers,
16 there wasn't sufficient enough answers with facts.
17 There wasn't enough answers with facts.

18 I'm embarrassed to say that the Pflugerville
19 City Council bought a sales pitch and voted to support
20 the racetrack based on our city's desperate need to
21 bring in tax dollars, immediate tax base, and not
22 necessarily because they love and support your sport.

23 While there may be pros and cons for having
24 a racetrack in our community, the City has not allowed
25 sufficient opportunity to gather and review facts from

1 qualified sources and -- from both sides, really, to
2 determine if this business can survive in our community.

3 There are their public work session was not
4 organized. And they didn't allow for an exchange of
5 information and facts between knowledgeable parties. We
6 weren't able to talk to each other. It was open to
7 everyone and it gave everyone the same three minutes
8 to -- if they had fact or feeling, so.

9 Requests for voting and pollings were denied
10 due to time restraints because the AGC had already
11 started a land acquisition and conceptual plan process.
12 And the County showed up to vote to bring in tax dollars
13 on something I felt like that they really didn't know
14 much about. And I know that because of questions that
15 I've asked them and they were not able to answer.

16 Most of the things that we asked, let's see,
17 when we asked the AG -- I'm sorry the AJC the
18 possibilities of things, oh, boy, can you come -- can
19 you build us a small concert venue, they said they would
20 consider it. And then we asked them about veterinarian
21 facilities. And they said, "Oh, we can consider that."
22 And we asked them, "Can you change your name so it is
23 not Austin anymore?" And they said, "Well, yeah, we can
24 consider that." And we made a lot of other suggestions.
25 And they offered to consider it, but nothing was really

1 based on hard-core facts. And there weren't any facts
2 and presentations to determine that if these ideas would
3 really work. No business plan or detailed layout,
4 though a feasibility study was presented. So none of us
5 really knew.

6 I felt like our City Council voted to
7 support the racetrack based on approximately 538
8 signatures, on 274 against and 264 of them for the
9 racetrack and all gathered the week before the meeting.
10 And I might have that number off just a little bit,
11 okay. But it was within 10 votes. All right.

12 And what I think is if there would have been
13 a proper asking of the community and stuff, because it
14 was so controversial, that we're against this racing for
15 whatever reason, that I was disappointed that Retama
16 didn't go back about and have some kind of a survey
17 going along this year and a half when they were just
18 saying, "We're looking for land." Because if they were
19 coming to our city and they were looking for land coming
20 to city, we probably would have found -- I mean, I would
21 have called Tim myself.

22 So I'm against the permitting of any new
23 racetrack at this time --

24 MS. GIBERSON: Time.

25 MS. CROSS: -- without a full economic,

1 demographic and factual study.

2 When the Racing Commission formed the rules
3 it developed to maintain high standards and the
4 reputation of their racing and the pari-mutuel industry,
5 I feel that Manor Downs is already in the Travis County
6 area. It should be offered the first opportunity to
7 become the racetrack in this region and required to meet
8 the standards of the industry.

9 I think that the racing industry is still
10 kind of new to allow oversaturation of this area,
11 especially a Class 2 race tracks, which have a history
12 of not succeeding.

13 The location and distances between the
14 Austin Jockey Club and Manor Downs has been brought up.
15 And unless the objective is really to put Manor Downs
16 out of business, I think allowing the Austin Jockey Club
17 to locate in such close proximity can be harmful. But
18 no one's presented economic viability of the proposed
19 Pflugerville track and they certainly haven't discussed
20 the economic viability of both tracks within miles from
21 each other. So I really haven't seen anything that
22 makes me feel comfortable about this.

23 CHAIR ROGERS: Okay. Your time is up.

24 MR. CROSS: Thank you.

25 CHAIR ROGERS: Thank you very much.

1 Do you have questions?

2 COMMISSIONER BOYD: Yes, please.

3 CHAIR ROGERS: Go ahead. Commissioner Boyd.

4 COMMISSIONER BOYD: And I'm sorry, I didn't
5 catch your name.

6 MR. CROSS: My name is Darlene Cross.

7 COMMISSIONER BOYD: Ms. Cross, when you have
8 these meetings, did a lot people show up?

9 MR. CROSS: To the first meeting, it was
10 new. I was at the first meeting when they came. And
11 there is a gentleman, I was the only one to speak up. I
12 pretty much wrote notes and then I found the research.

13 The second meet, I spoke up about hoping we
14 don't do anything. I did several hours -- many, many
15 hours of study with the Racing Commission and stuff to
16 get my information and I forwarded the information, as I
17 was getting it, to the City.

18 COMMISSIONER BOYD: And so you-all were able
19 to voice your opinions. And were you able to get
20 answers from the City Council at those meetings on your
21 concerns and --

22 MR. CROSS: No.

23 COMMISSIONER BOYD: You weren't?

24 MR. CROSS: No.

25 COMMISSIONER BOYD: How were you not?

1 MR. CROSS: I wasn't able to get answers as
2 far as -- I did a lot of math you calculations myself
3 for the taxes and the benefits that they said it would
4 bring. I did charts and studies on the other race
5 tracks that were around Texas, the differences between
6 the Class 1 race tracks and the Class 2 race tracks,
7 what hotels and businesses were developed up and around
8 those race tracks, how it compared to the demographics
9 in our neighborhood and things like that. No, I could
10 not get any of those answers. I did the studies myself
11 and forwarded it to the mayor.

12 COMMISSIONER BOYD: Did you attend all those
13 meetings?

14 MS. CROSS: Yes, ma'am, I did.

15 COMMISSIONER BOYD: And did -- as though
16 meetings progressed, did a lot of people -- did more and
17 more people start coming to those meetings?

18 MR. CROSS: Yes, ma'am, they did.

19 COMMISSIONER BOYD: So in the media, the
20 meetings --

21 MR. CROSS: Actually, there's only been
22 three meetings, okay, and the last meeting had the most.

23 COMMISSIONER BOYD: How many would you say,
24 just approximately?

25 MR. CROSS: I'd say we filled a room like

1 this.

2 COMMISSIONER BOYD: Okay.

3 COMMISSIONER STRAYHORN: Mr. Chairman.

4 CHAIR ROGERS: Ms. Strayhorn.

5 COMMISSIONER STRAYHORN: One question,
6 Ms. Cross. You referenced a request for votes. I
7 believe you said request for votes.

8 MR. CROSS: Yes.

9 COMMISSIONER STRAYHORN: And I believe you
10 said a request for votes and polling were rejected.
11 Were you asking like for a referendum on this issue or
12 what you were referencing?

13 MR. CROSS: I think it was presented that,
14 one, they asked if we could have a -- can't think of the
15 legal terminology where you actually hold the vote.

16 COMMISSIONER STRAYHORN: Referendum on the
17 issue.

18 MR. CROSS: They asked for that. And there
19 wasn't enough time due to -- because of the order in
20 which the Austin Jockey Club has come along and that,
21 you know, they're going to have to hurry up and annex
22 this when they do that. It has something to do with the
23 fact that they were already in this process.

24 And the other one was --

25 COMMISSIONER STRAYHORN: Basically, what you

1 were asking for was a vote on this?

2 MR. CROSS: There were two options. And the
3 other option was somebody actually even presented a way
4 to conduct a survey throughout the City. I don't know
5 the details of what that survey was. But they were
6 weren't interested in that either.

7 COMMISSIONER STRAYHORN: Thank you.

8 MR. CROSS: Thank you.

9 CHAIR ROGERS: Any other questions?

10 Okay.

11 MR. CROSS: Oh, sorry.

12 CHAIR ROGERS: Oh, that's fine. Let me give
13 you the next group kind of in order.

14 We will have David Calabuig, Steve Washburn,
15 Peggy Kohn or Cane, Michael Reese.

16 MR. CALABUIG: Good afternoon. My name is
17 David Calabuig and I represent my family and the family
18 opposed this location of this racetrack in Pflugerville.
19 I have studied a lot of business ventures, so that's the
20 topic of my presentation.

21 Mr. Brown, from the Austin Jockey Club,
22 mentioned that 70 percent of the revenues of Retama in
23 Selma were used for the finished projections of this
24 proposed racetrack. He said in the approval of the City
25 Council on October 26th that he didn't want to hire

1 financial consultant who will come up with these same
2 numbers of using 70 percent.

3 Either one was concluded that we do not have
4 the financial strength to work from or to be addressed.
5 Or maybe one could conclude that they do not believe
6 that this Commission needs to make an unbiased decision
7 for the members of the application.

8 So I cannot -- if you want to consider the
9 assumption of Mr. Brown. The metropolitan area in San
10 Antonio is only 1.6 million inhabitants. This number
11 does not account for the additional population between
12 San Marcos and Selma, just 38 miles apart. Whereas the
13 Austin population is only 70,000 inhabitants or 44
14 percent of the Retama Park market. Manor Downs is less
15 than five miles away from the proposed racetrack. What
16 impact on the Austin market is ordered to predict. The
17 conservative estimate would assume that an additional 50
18 percent reduction or only 20 percent of Retama Park
19 revenues should be used.

20 So to conclude, Retama Park horse handled
21 \$100 million in 2003. So this proposed site should have
22 a race projection of \$22 million and not the \$17 million
23 suggested by Mr. Brown to the City Council.

24 Please note that the Austin Jockey Club's
25 application forecasting wagers of \$38.2 million or by 38

1 percent of the Retama Park revenues. Under our
2 forecasting model, it is not realistic to assume that
3 the Austin market support two Class B facilities. Thus
4 the Austin Jockey Club's assumptions are greatly
5 exaggerated and unrealistic.

6 Interesting enough, Manor Downs had revenues
7 of \$23 million in 2003. So it seems that the Austin
8 market for this type of venue is already saturated
9 because Manor Downs is only able to bring in \$23 million
10 a year.

11 Granting a license to this proposed
12 racetrack is fiscally irresponsible because, due to the
13 fact that there is a smaller population area here,
14 there's another racetrack nearby and the assumption I've
15 heard today.

16 The proposed Pflugerville racetrack will not
17 bring the promised tax revenue to the State and to the
18 City of Pflugerville. Even though the Sam Houston and
19 Retama Park race track had much larger population than
20 Austin, they went bankrupt in a year of the openings.
21 So Manor Downs or the proposed Pflugerville racetrack
22 will go bankrupt due to the close proximity of those two
23 tracks.

24 And I have an exhibit that shows, you know,
25 how close they are. And you can see they're just 4.5

1 miles ahead, straight up. They're five miles if you
2 take the 130 project being done.

3 So that's my presentation.

4 Any questions?

5 Thank you.

6 MR. WASHBURN: My name is Steve Washburn.

7 I'm the pastor of the First Baptist Church in
8 Pflugerville. I appreciate you allowing me to speak.

9 I stand before you this afternoon
10 representing 12 of the Pflugerville area Baptist -- not
11 Baptist churches, 12 of the Pflugerville area churches
12 with membership over 5,000, somewhere in that
13 neighborhood.

14 We are, as churches, united in our
15 opposition against the racino coming to Pflugerville.
16 Our position is moral. And you all would disagree with
17 our position, perhaps. That is certainly your
18 prerogative. But what you need to hear is, there are
19 many, many, many in the faith community who are in
20 opposition to this. And we're joining our voices today
21 with others who are coming in opposition for other
22 reasons.

23 As pastors and as churches, with another
24 racetrack just five miles away, with what I understand
25 to be serious financial and roadway problems, and now I

1 understand even the Travis County Commissioner's are in
2 opposition to this racino. It's confusing to us who
3 give leadership to the faith community, it's confusing
4 to us why the Commission would give serious
5 consideration to putting this rasino in Pflugerville
6 with so much opposition from the community.

7 CHAIR ROGERS: I just want to make one
8 comment. We are not dealing presently with the rasino.
9 We are dealing presently with the racetrack. That may
10 be eventually, but that would be up to the Legislature,
11 not to us.

12 MR. WASHBURN: Our position would be the
13 same.

14 CHAIR ROGERS: Let me ask you one other
15 question, just so I have clarity on this. I understand
16 your opposition. Yes, sir. When you say that the
17 churches in your community are opposed to it, have your
18 pastors been polled on that? Have your congregations
19 been polled on that or are you just -- is that kind of
20 an assumption that they would be?

21 MR. WASHBURN: No, I have called -- on the
22 way here today, called 12 of my friends and asked their
23 permission to represent them here today and they said,
24 yes. And I haven't contacted the rest of them, so I
25 don't know.

1 CHAIR ROGERS: Thank you.

2 MR. WASHBURN: I do represent 12 pastors, 12
3 churches today.

4 CHAIR ROGERS: Thank you.

5 Ms. Kohn or Kohn.

6 MS. KOHN: Good morning. My name is
7 Peggy Kohn and I'm here today as a representative of
8 Pflugerville and as a breeder of thoroughbred race
9 horses. I am very much in favor of the Austin Jockey
10 Club's request to relocate their license to
11 Pflugerville.

12 With all the recent vocal opposition to this
13 track, as well as racing in general, I want to make sure
14 that you are aware that there is support for the
15 proposal to move this facility by the Pflugerville
16 citizens. It's just very difficult to get people in
17 favor of a possible entertainment venue to take the day
18 off, drive in the rain, come to a place like this.

19 I, however, feel probably more passionately
20 in favor of it than the average citizen, because I grew
21 up in a town with a similar demographic to Pflugerville,
22 about 20 some thousand people that hit a little bit of a
23 rough spell in their early '70s, a failing downtown and
24 is now back to its former glory. You may have heard
25 Saratoga Springs, New York, a town where the racetrack

1 is not just a traffic problem, a possible source of
2 revenue, it is integral to the community. It is part of
3 the community and the culture. It brings the kind of
4 values that I think most of the people here who are
5 saying they're opposed to the racetrack are opposed to.

6 Just from my perspective, I can say that I
7 don't see that the two tracks being so close together
8 are -- is necessarily that problematic. Obviously,
9 Belmont and Aqueduct are sitting in the same town. It's
10 not really an issue. I think that as -- from an
11 economic perspective, any sort of competition improves
12 quality and is good for the consumer.

13 I think that if the two tracks can work
14 together, they can increase the positive image of racing
15 in the area and thereby increase the overall positive
16 financial impact to the racing community.

17 I see that there's been talk of them being
18 directly in competition. But by scheduling the live
19 racing dates of thoroughbreds not against thoroughbreds,
20 quarter horses not against quarter horses, you actually
21 need more horses racing in the area. You have people
22 getting more involved with the sport.

23 Honestly, I've got to say, I have 12 group
24 mares and two stallions. They're in Pennsylvania. And
25 I didn't know that Manor raced thoroughbreds until this

1 whole opposition came up. I'm glad to hear it. But I
2 think that that says something about what having more of
3 a presence can do for the sport.

4 Just as I said, again, I do have my horses
5 in Pennsylvania right now, just because the sport in
6 Texas hasn't been as prominent as it is in some other
7 states. And I'm really looking forward to a decision
8 that would locate a track in my backyard so that I can
9 bring my mares here to get some Texas breds and race
10 them.

11 Thank you.

12 CHAIR ROGERS: Thank you. Any questions?

13 Thank you.

14 Okay. The next group would be.

15 MR. REESE: Oh, I'm sorry, Michael Reese. I
16 think was the next one.

17 CHAIR ROGERS: Yes, thank you.

18 MR. REESE: Sorry. I was just going to --
19 couldn't remember the exact order.

20 My name is Michael Reese and I am a resident
21 of Pflugerville area since around '92. Actually, grew
22 up in the Northeast Austin area, so I've been here for
23 quite some time.

24 There's a quite a number of issues that I
25 could reiterate, like whether it's really in the public

1 interest, which I don't think it is. The impact on
2 Manor Downs, which the AJC says that it will negatively
3 impact Manor Downs. Manor Downs is already upgraded.
4 The traffic.

5 But really, I'd like to use just a few
6 moments to kind of clarify the unanimous vote for the
7 City Council. It wasn't. Only in a strict sense was it
8 unanimous. One of our council members abstained from
9 voting because he was not sure whether it would be good
10 or bad.

11 And as far as the issues with annexation, I
12 got the impression from today, listening to our City
13 leaders that they were all for annexing land. But they
14 gave a variance to the Austin Jockey Club. I mean, the
15 Austin Jockey Club was required to request to be
16 annexed, but they gave no variance. So I'm confused as
17 to why they would do that.

18 And that's all I have to say. Any
19 questions?

20 CHAIR ROGERS: Questions?

21 COMMISSIONER STRAYHORN: Is the City Manager
22 still here? Can we address the -- Mr. Reese, I didn't
23 mean to send you away, I'm just trying to --

24 MR. REESE: No, no, no. I'll stand back
25 here just in case.

1 MR. BEUSING: It was a unanimous vote of the
2 ones that were present. One Council member was not
3 there that night.

4 COMMISSIONER STRAYHORN: And what about the
5 annexation of the variance? Speak to that, please, that
6 question.

7 MR. BEUSING: The question we are looking at
8 annexing that land. There is a variance request to P&Z
9 that had to be allowed because there's.

10 COMMISSIONER STRAYHORN: Through the
11 Planning and Zoning Commissioner?

12 MR. BEUSING: Yes, ma'am. And that had to
13 do with them requesting annexation. Before this ever
14 came up, we were talking about annexing that land. So
15 the variance was really not an important issue, other
16 than we were looking annexing it already.

17 COMMISSIONER STRAYHORN: What did the
18 Planning and Zoning Commission do? They granted --

19 MR. BEUSING: They granted the variance.

20 COMMISSIONER STRAYHORN: And explain that
21 variance. It's the variance from being annexed? I
22 mean, I've been awhile since I've been involved with
23 this.

24 MR. BEUSING: There's some kind of
25 requirement that they are supposed to present before

1 they present a conceptual plan. That they're supposed
2 to have a -- they're supposed to provide a conceptual
3 plan and they have to ask for annexation. We were in
4 negotiations at that time talking about annexation and
5 they asked to allow that variance to take place.

6 COMMISSIONER STRAYHORN: Rather than ask for
7 annexation?

8 MR. BEUSING: Right, because we were in the
9 process --

10 COMMISSIONER STRAYHORN: It was a variance
11 so that they did not have to ask for annexation?

12 MR. BEUSING: And if I understand it right,
13 it also had to do with us being able to look at their
14 conceptual plan as far as, you know, viewing it.

15 COMMISSIONER STRAYHORN: Without them being
16 annexed.

17 MR. BEUSING: That's correct. Without them,
18 yes, ma'am.

19 COMMISSIONER STRAYHORN: And Mr. Linehan,
20 was hear to speak.

21 THE REPORTER: I'm sorry, sir. Would you
22 give me your name?

23 MR. BEUSING: My name is David Beusing,
24 B-e-u-s-i-n-g.

25 MR. LINEHAN: My name is Paul Linehan. And

1 I represented that variance request through the Planning
2 Commission and it was a request for not asking for
3 annexation while we went through the conceptual
4 subdivision process. And that variance was granted by
5 the Planning Commission, because they were already
6 looking at annexation at the time.

7 So there was no really need to ask for
8 annexation when the City Council had already initiated
9 annexation hearings on that piece of property. But that
10 had -- it was just the procedure that we had to go
11 through so that the conceptual subdivision plan and site
12 plan could be reviewed by the City of Pflugerville.

13 COMMISSIONER STRAYHORN: Without annexation?

14 MR. LINEHAN: That's correct.

15 CHAIR ROGERS: Any other questions?

16 Thank you.

17 Do we have anybody else on tap? I've kind
18 of loss track myself.

19 Okay. Mike Conkle, Margaret Alonzo -- I'm
20 sorry, Louis, I don't have a clue what your last name is
21 here, M-e-r, something, e-d-s-t-e-i-n, and Brenda, I
22 believe it's Hernandez.

23 Yes, sir.

24 MR. CONKLE: Yes, my name is Mike Conkle.

25 I'm a former tax assessor for Manor Independent School

1 District. Back when I was there in '79 and '82, there
2 were proposals floating around in the Legislature about
3 introducing bills for pari-mutuel wagering in this
4 state. I found myself to be a enthusiast for
5 pari-mutuel wagering when this finally did come to pass
6 and I was really looking forward to going to Manor Downs
7 and betting on horses. And I was there their opening
8 day.

9 It's my understanding that this Commission,
10 basically, has a responsibility and a goal to support
11 and enhance and promote horse racing -- the racing
12 industry. The issue about traffic, well, I understand
13 that is a legitimate issue.

14 If you were to go to Manor Downs this
15 morning, there are twice as many people in this room
16 right now than there are at Manor Downs for the
17 simulcast. We don't go, as patrons, between 7:00 and
18 9:00 in the morning. We go around 10:30. We don't
19 leave at lunch during high traffic or high peak traffic.
20 We don't leave at 4:00 or 5:00 in the afternoon. We
21 don't show up at 4:00 or 5:00 in the afternoon.

22 And even -- and I do want to see this new
23 track come in. Even if it does come in, don't count on
24 there being 2, 3,000 people out there. Maybe initially,
25 because I remember the night Retama and there were

1 almost 30,000. Retama has not seen 30,000, not even
2 close. So the issue about traffic can be worked out
3 with the Commissioner's Court and the City Council and
4 the people of Pflugerville.

5 As far as the issue with Manor Downs. Manor
6 Downs has had over 10 years to upgrade its facilities.
7 This \$3.7 million upgrade that they're talking about was
8 to the track, the track surface. Had nothing to do with
9 where I have to make my bets.

10 Last week I was out there and had to go to
11 the men's room and actually cut the water flow to a
12 toilet tank off because their people would not come in
13 and cut it off. There was an inch of water standing in
14 the bathroom -- the men's room.

15 Two weeks prior to that, I had to call this
16 Racing Commission and complain about the only public
17 water fountain out there not working for three weeks.
18 Three weeks.

19 Manor Downs' handle has decreased, Manor
20 Downs' attendance has decreased. And it will continue
21 to do so because there is no remedy in sight for
22 patrons -- for the patrons comforts out there that we
23 are demanding, that we want. And it's just real simple.

24 MS. GIBERSON: Time.

25 MR. CONKLE: If I have to sit out in

1 freezing weather or if I have to sit out in 100 -- and
2 this happened, 115 degree weather with absolutely no air
3 conditioning and no heating, then I'm not going to go
4 there. It's that simple.

5 I have seen this plan for Retama -- I mean,
6 for Austin Jockey Club and I think it's a great plan.
7 And I think it's sorely needed in this particular -- in
8 this particular area.

9 Now, as to tax revenues, if the goal of this
10 Commission is to enhance and promote horse racing in the
11 State, it is -- it should also be one of your goals to
12 make sure that this State gets revenue from that
13 endeavor.

14 CHAIR ROGERS: Okay. Your time is up.
15 Thank you very much.

16 There is one comment that I would like to
17 make before we open up to questions. And that is, just
18 to clarify that this Commission's role is not to promote
19 horse racing or to promote pari-mutuel betting.
20 Initially, it was, but that removed by the Legislature
21 and our sole and only goal is to regulate it, not to
22 promote it, presently.

23 MR. CONKLE: I understand.

24 CHAIR ROGERS: Now, in the public interest.
25 It is in our public interest and I think one of our

1 major concerns has to be maximizing revenue for the
2 State of Texas. And that is one of the things that we
3 have a definite obligation to do. But to promote the
4 industry, it was removed by the Legislature as one of
5 the things that actually is our mandate.

6 Any questions?

7 Thank you very much.

8 Okay. Ms. Alonzo.

9 MS. ALONZO: Excuse me. My name is
10 Margaret Alonzo and my husband and I moved to
11 Pflugerville three years ago to live close to our
12 grandchildren. And we've enjoyed the close proximity to
13 Austin and the small town ambience of Pflugerville and
14 we've seen a lot of growth with new subdivisions
15 bringing in more and more families.

16 Not to our great surprise the issue of this
17 racetrack has come up. Our City Council endorsed the
18 track without enough timely information for all the
19 residents to be informed of what was taking place. It
20 would have -- it would have an impact on all of us
21 directly and indirectly.

22 We feel the racetrack and possible casino
23 does not belong in such close proximity to our
24 neighborhoods. Many people tell me they would move out
25 of Pflugerville if the racetrack was approved by the

1 Texas Racing Commission. Also, we have enough traffic
2 congestion off Pecan Street without the added burden of
3 the racetrack traffic.

4 We all urge you to turn own this application
5 for the Austin Jockey Club. We don't need it. And we
6 certainly don't want it.

7 Thank you.

8 CHAIR ROGERS: Any questions?

9 Thank you.

10 I think -- were there any questions?

11 Thank you.

12 MS. ALONZO: Okay.

13 CHAIR ROGERS: Luis, I -- is there a
14 Luis Mernelstein.

15 Okay. Ms. Hernandez.

16 FROM THE FLOOR: Ms. Hernandez had to leave.

17 CHAIR ROGERS: Okay.

18 FROM THE FLOOR: Is that Brenda Hernandez?

19 CHAIR ROGERS: Yes.

20 FROM THE FLOOR: Okay. She had to leave.

21 CHAIR ROGERS: Okay. Let me move on then to
22 some other folks. Robert Munzel and MaryAnne Wilson.
23 And then Carolyn Graf and Rose Linville.

24 MR. MUNZEL: Afternoon, Commissioners. I'm
25 Robert Munzel. I'm a homeowner living in Pflugerville,

1 just north and west of the City park and pool. And I
2 have had an opportunity to visit with about 35 of the
3 homes in that neighborhood, most of them laid out along
4 Parkview. Of those 35 homes, 70 to 75 percent of the
5 residents there were against the racetrack. Fifteen to
6 twenty percent were undecided and about five percent
7 were in favor of it. So, yeah, there were people there.
8 They do have a right to be on record of being in favor
9 of it.

10 Most of the people there, though, were
11 appalled at the way the City was handling the proposal.
12 As we heard earlier, it was kept very quiet for almost a
13 year. It was almost as if a leak occurred before the
14 public found out about it. They were very appalled at
15 that because, you know, they realize this effects a lot
16 of people, not just someone right there in the area.

17 So they've been attending their meetings and
18 trying to do what they could do. The question brought
19 up a little bit earlier is if everybody had a chance to
20 voice their opinion about, you know, their concerns of
21 the racetrack. And I'll have to say, no, they were not.
22 I think it was the October 12th variance meeting where
23 the City Council approved the variance, the City Council
24 actually had a leave -- they moved the meeting from
25 their City chambers to the Justice Center to try to give

1 adequate capacity for the membership of Pflugerville.

2 That proved to be totally inadequate. There
3 were many people outside who were not able to hear and
4 participate in the proceedings of that meeting. They
5 were finally able to bring in some sounds so they could
6 kind of hear what was going on. But there were very
7 many people who were opposed to this, outside and were
8 not able to attend and participate and share their
9 opinions.

10 The crowd was so large, as a matter of fact,
11 the Fire Marshal kept coming through and emptying --
12 well, telling people to leave. They had met the
13 capacity issue of the meeting hall.

14 The City Council was aware that this was
15 going to be a very hot topic and many people expressed,
16 why don't we postpone this meeting and get one of the
17 high schools, one of the larger meeting rooms so
18 everybody could attend it. No, we have to do this right
19 now. This is a very fast -- it's ongoing, we have to do
20 it.

21 A lot of people have been very appalled that
22 four people were able to vote this variance in, the
23 approval. You know, I was amazed that four people could
24 vote for my entire family, my neighborhood. But many
25 people's opinions were not heard.

1 When asked to do a referendum. No, we don't
2 have time. I don't really think the City Council is
3 listening to the will of the Pflugerville residents.
4 Sounds to me like they were -- you know, they were
5 trying to increase tax dollars into the community, which
6 is a great idea, but I honestly feel they had concerns
7 of the opposition. It was trying to be kept quiet as
8 much as possible.

9 And that's all I have got to say. Thank
10 you.

11 CHAIR ROGERS: Any questions? Thank you.

12 COMMISSIONER BOYD: Chairman.

13 CHAIR ROGERS: Commissioner Boyd.

14 COMMISSIONER BOYD: One question: How were
15 these meetings advertised, in the paper?

16 MR. MUNZEL: They started off in the paper
17 in the back of the *Pflugerville Pflag*, small local paper
18 and many people do not read them.

19 You see the newspapers, the back of the
20 classifieds. Very few people actually read, you know,
21 the classifieds from cover to cover. So many people
22 would miss it. I catch the *Pflag* every so often. I
23 didn't know about it until it was announced that, "Hey,
24 we're having a racetrack." And then grass roots
25 organization grew from that because people were going,

1 "What racetrack?" Most of my neighbors did not know
2 anything about it.

3 COMMISSIONER STRAYHORN: Mr. Chair.

4 CHAIR ROGERS: Yes.

5 COMMISSIONER STRAYHORN: When you say the
6 back of the *Pflugerville Pflag*, are you talking about
7 public notices or are you talking about articles?

8 MR. MUNZEL: Public notice in the back. It
9 wasn't until recently where the *Statesman* has gotten
10 into it where there's been some real articles so that
11 more of the populous knows about it. But it was all
12 done just like the little things you see in the back of
13 the classified section.

14 CHAIR ROGERS: Okay. Thank you.

15 MR. MUNZEL: Thank you.

16 CHAIR ROGERS: Ms. Graf, Carolyn Graf, and
17 then we'll have MaryAnne Wilson.

18 MS. GRAF: Hello, I'm Carolyn Graf. I'm a
19 small business owner in downtown Pflugerville and I'm
20 president of the Pflugerville Downtown Association. I'm
21 here today representing the central business district
22 and the 300 patrons who have signed our petition for the
23 racetrack.

24 We are a community of rooftops. The people
25 do not shop in downtown Pflugerville. We have several

1 businesses that have gone out of business just recently.
2 And we struggle on a daily basis to stay open.

3 We saw this as a catalyst for bringing
4 business to Pflugerville. This would increase the sales
5 tax revenue. It would create jobs in our community on a
6 daily basis and during racing season. And we see that
7 this is also jobs for our teenagers in the summertime.

8 The proposed construction of hotels in front
9 of the track would create a much needed hotel tax. We
10 have no hotels in our area. This is one of the reasons
11 we do not benefit from the soccer tournaments. No one
12 comes into our shops at the soccer tournaments because
13 we have no hotels for these people to stay in.

14 We are very limited on our meeting room
15 facilities in Pflugerville. This would also have a
16 venue of meeting rooms for us to be able to use.

17 Additionally, there are other related
18 businesses such as horse boarding, tax sales, food and
19 beverage suppliers, large animal veterinarians, horse
20 medical treatment facilities.

21 And probably the most important to us would
22 be the expansion of the existing businesses and creation
23 of new businesses to stir the influx of people that
24 would be coming to our City on race days.

25 I'd like to also address just a little bit

1 about letting the community know these things have been
2 happening. The *Pflugerville Pflag* comes out on a weekly
3 basis. They have done a very good job of covering each
4 of the City Council meetings. Also, the City Council
5 meetings are taped and they run twice a week, the
6 Wednesday after the meeting on Tuesday night and on
7 Friday night. So, yes, the public can become aware of
8 what's going on with the City Council meetings, other
9 than just the newspaper.

10 There have been articles in the *Austin*
11 *American Statesman*, but our small hometown paper -- I
12 know not many people take it -- but that's an option on
13 their part to take the paper and become informed.

14 At the last City Council meeting Mr. Brown
15 and Mr. Timmerman did an excellent job of answering all
16 of our questions that we had posed to them at the
17 four -- at the meeting previously, we talked about the
18 number of instances concerning the police at Retama
19 Park. They gave us exact -- exact details on that.

20 They talked to us about the number of -- the
21 traffic going in and out of the facility.

22 They had had letters from the mayor of Selma
23 concerning how that track has supported Selma and the
24 things that they have done for it. The mayor also lives
25 in the subdivision adjoining the racetrack. That has

1 not been a problem.

2 They talked about the things they've done
3 for the community, the infrastructure, the roads that
4 are provided. They also had their pastor, which that
5 was the first I had ever heard that there was a pastor
6 at the racetrack. He was there and spoke that night
7 about the racetrack and the things that he provides the
8 racetrack.

9 So I personally feel we've been very
10 informed by this group to letting us know what to expect
11 when we get the racetrack.

12 The road is altogether another issue. It's
13 going to happen no matter what. We have to have a road.

14 There is a new subdivision going in
15 approximately a mile east of 130. There could be 2500
16 to 6,000 homes in this area. So --

17 MS. GIBERSON: Time.

18 MS. GRAF: -- a road is going to have to
19 happen.

20 Thank you.

21 CHAIR ROGERS: Your time is up.

22 Are there any questions? ?

23 Okay. Thank you very much.

24 Ms. Wilson.

25 MS. WILSON: Hello, my name is

1 MaryAnne Wilson. I speak for myself and my family as a
2 resident of Pflugerville.

3 I am opposed to the racetrack, as many of my
4 neighbors and fellow citizens are. I have attended the
5 City Council meetings, two of them. Very crowded, lots
6 of people had a lot to say.

7 I heard the votes at the City Council. I
8 attended a town hall meeting where the citizens were
9 asked to tell the mayor what we would like Pflugerville
10 to become. They want to cast Pflugerville as a certain
11 type of city to get businesses and people to move there.

12 During that town hall meeting, the citizens
13 all said that they would loved the family environment.
14 They loved the safety and security, the low crime that
15 Pflugerville had. And they said they would like to see
16 more family-style entertainment. They would like movie
17 theaters, they would like bowling alleys, they would
18 like sporting events and all of the businesses that
19 would help that to grow and sell soccer shin guards and
20 things.

21 There was never a mention of adult
22 entertainment. No one in that town home meeting wanted
23 that. They all wanted to provide and protect
24 Pflugerville family lifestyle.

25 I went to a neighborhood meeting at the

1 Bowls Crossing, Bowls Place neighborhoods. Those of you
2 drove Pecan Street probably saw that those neighborhoods
3 right within a mile of the horse racing. And at that
4 meeting, there was -- there were 20 to 30 people in
5 attendance. One person was for it. The rest of them --
6 the people at that meeting were opposed to the
7 racetrack.

8 Those of us who live close enough, our
9 families go to school there, our churches there are, our
10 homes are there. We don't want it. The City Council
11 wants tax dollars. They're desperate for it. And the
12 businesses of Pflugerville are failing because they
13 don't offer things that most of us need. If you can't
14 buy a pair of socks in those businesses. They think
15 that people come to races will stop on a crowded road in
16 bad traffic to support the business.

17 The City Council caters to those businesses.
18 They are definitely tax dollars and they're not
19 listening to the residents.

20 We do not want this in our community. And I
21 ask you to please turn down the petition of the Austin
22 Jockey Club and not allow this racing venue to be in our
23 neighborhoods.

24 Thank you very much for your time.

25 THE COURT: Thank you.

1 Any questions?

2 Thank you.

3 Okay. Rose Linville.

4 FROM THE FLOOR: She left.

5 CHAIR ROGERS: Is she gone?

6 Dennis Blake. And then Weston Ware.

7 MR. BLAKE: Good afternoon, my name is
8 Dennis Blake. I have lived in Pflugerville for about a
9 year now. I am also editor of the Texas Thoroughbred
10 magazine, so it shouldn't surprise you that I'm in favor
11 of the racetrack in Pflugerville.

12 You know, I've heard so many people say that
13 70 to 80 percent of the people in Pflugerville are
14 opposed to that -- to this racetrack. I've talked to my
15 neighbors, my wife has, and we've found maybe 70 to 80
16 percent of the people are in favor of it or at least
17 have no strong opposition.

18 Somebody brought up at one of the past
19 council meetings that, you know, when you're talking to
20 your friends and people you know, you tend to have
21 similar views. And I think that's kind of what's going
22 on here. In certain church groups maybe 70 to 80
23 percent are opposed to it. That doesn't mean all of
24 Pflugerville is. You know, the real number is probably
25 somewhere in between.

1 The people I've talked to that are in favor
2 of it, you know, if I brought them a petition to sign,
3 they'd probably sign it. If I said, "Come out with me,
4 we're going to do a big petition drive," I don't know if
5 they would. You know, maybe they don't have the passion
6 to support it that some of the people that are against
7 it, but they support it nonetheless. And you know,
8 they're just not out there, you know, spending hours and
9 hours trying to collect these petitions.

10 You know, one of the things I saw about this
11 petition drive that kind of bothered me, they were doing
12 a pizza promotion where they were trading -- and this
13 was their words -- trade pizza for signatures. You
14 know, on an issue that I didn't care much about, if
15 somebody gave me some free pizza, maybe I'd sign that
16 petition. You know, on something like this, I wouldn't.
17 But if it was an issue I didn't care about and someone's
18 giving me some pizza, you know, maybe I'll sign my name.

19 And just put down the traffic. Yes,
20 traffic, you know, could be a problem. But Manor Downs
21 is on a two-lane road. I've been to Manor a lot. I've
22 never seen any traffic problems at Manor.

23 You know, the soccer field causes a lot
24 these traffic problems. But I don't see anybody saying
25 that we shouldn't play soccer, that we shouldn't let our

1 kids play soccer in Pflugerville.

2 So I support it as a citizen of
3 Pflugerville. I'm not talking for Texas Thoroughbred
4 Association. Dave Hooper will do that later.

5 Thank you.

6 CHAIR ROGERS: Any questions?

7 Thank you.

8 Mr. Ware. I'm a little confused here. This
9 says you represent the Texans Against Gambling, but
10 you're going to testify for this -- in favor of it?

11 MR. WARE: I'm going to testify against it.

12 CHAIR ROGERS: Okay. I need to change your
13 card a little here.

14 MR. WARE: It was an error.

15 CHAIR ROGERS: Okay. I'm just trying to --
16 I was just trying to reconcile myself with that
17 position.

18 MR. WARE: I'm the volunteer legislative
19 director for Texans Against Gambling. And I do have
20 considerable experience in the area of racetrack
21 gambling in Texas. I think I've testified on every
22 major bill on racetrack gambling in Texas since 1983.
23 So I -- I do have experience in this -- in this area.
24 And my congratulations to Pflugerville for being
25 involved in public policy on both sides of this issue.

1 My congratulations, also, to Manor Downs,
2 because they have live racing and it's a rare thing for
3 a track thing for a track -- Class 2 track to have live
4 racing.

5 I remember back in the '80s and the '90s,
6 when we were arguing about the Class 2 tracks, what we
7 saw was they were being licensed mainly on the hope that
8 we would get, as soon as we could, some more serious
9 kinds of gambling at these tracks. And, as you
10 remember, back in '91 when we finally began to get
11 racing in Texas, we had to have simulcast and then other
12 kinds of gambling. And now the issue, I would suggest
13 to you as the Commission, the due diligence of the
14 Commission is, do you want to license a horse track
15 that's very likely to fail, but is a major speculation
16 of a group that would like to have a major casino,
17 several thousand slot machines in your town of
18 Pflugerville or in your County of Travis?

19 You -- this is -- this is really an issue --
20 and I know, Mr. Chairman, you've said that is not the
21 issue today about slots at the track. This is not about
22 racinos. But I suggest to you that the issue across the
23 country is, basically, that in the last several years,
24 there have been major pushes by horse tracks all across
25 the country to bring racinos, slots at the track. And

1 we had bills in the last legislative session and in the
2 special sessions calling for -- calling for 3,000 slot
3 machines at each of these tracks.

4 And that's, basically, what the people are
5 betting on. May not be able to make it with live
6 racing. And I don't know if the people here realize
7 live racing doesn't produce any revenue to the State
8 directly. The taxes off of simulcasting does. But live
9 racing has been a declining thing for a number of years
10 in Texas.

11 But what these people are asking for is:
12 Give us a license that, in a year or two years or three
13 years, will be worth big money for a casino in Austin.

14 So --

15 MS. GIBERSON: Time.

16 MR. WARE: -- you know, I could talk about
17 the problems of a casino, but I will not do that. Be
18 glad to answer any questions.

19 CHAIR ROGERS: Thank you.

20 Just one quick comment, just point of
21 clarification in your testimony. The State does receive
22 revenue off live racing. It has -- the handle has
23 declined slightly over the last few years, but the State
24 does receive revenue off both live racing and off of
25 simulcast. So there is revenue in both areas.

1 MR. WARE: That's changed in the last year
2 or so, because the records that I have seen indicated
3 that live racing was not producing revenue for the State
4 of Texas.

5 CHAIR ROGERS: I believe it does.

6 MR. WARE: Maybe the Comptroller can tell
7 us.

8 CHAIR ROGERS: We're not taking this portion
9 of the live racing handle. You may be right and I may
10 need to stand corrected. So let's let me be sure here.

11 COMMISSIONER BOYD: Mr. Chairman, while
12 you're waiting. Could you repeat his name for us,
13 please?

14 CHAIR ROGERS: Yes. He is Weston Ware.

15 Ms. Flowerday, could you clarify this for
16 us. Get me out of this hole, would you?

17 MS. FLOWERDAY: Mr. Chairman, the statute
18 does allow for a State tax on live wagering. However,
19 there is a threshold of live wagering that occurs before
20 the tax kicks in. And that threshold has not been met.

21 CHAIR ROGERS: Okay. I stand corrected. So
22 the State presently is not receiving any revenue off
23 live racing directly from the tax on that.

24 MR. WARE: Thank you.

25 COMMISSIONER STRAYHORN: Mr. --

1 CHAIR ROGERS: Yes.

2 COMMISSIONER STRAYHORN: I'm having a little
3 check for the precise figures on what we're pulling from
4 racing of the simulcasting each year. But you are
5 correct, sir, in that the first 100 million is exempt
6 from live racing. And I'll get the precise figures for
7 you in just a minute.

8 MR. WARE: I'm through, unless you have
9 other questions.

10 CHAIR ROGERS: Thank you. We'll get some
11 clarification on that after we've listened to one or two
12 more.

13 I think we're going to hear from -- from
14 maybe a couple more people and then we're going to take
15 a short break again.

16 We need to hear from Robert Ventura and
17 Julia Ruiz.

18 Is Mr. Ventura here, Robert Ventura?

19 Okay. Ms. Julia Ruiz.

20 MS. RUIZ: Good afternoon. Thank you for
21 this opportunity, Commissioners. My name is Julia Ruiz,
22 spelled R-U-I-Z.

23 I have been an active member of our
24 community and proud to say that I've been a resident of
25 Pflugerville -- excuse me -- for eight years.

1 The most misleading information we've
2 witnessed was the use of a push poll from Baselice and
3 Associates. In that push poll, they misled our City
4 Council into believing that there was a substantial
5 number of citizens in favor of this track. Several of
6 our supporters received phone calls. And when they
7 stated they were against the racetrack, the pollsters
8 attempted to sell them on it by indicating that it would
9 add \$500,000 per year in ad valorem taxes, based upon
10 our extensive door-to-door canvassing of Pflugerville
11 neighborhoods.

12 Now, this has been since October 26th, when
13 the City Council voted unanimously for the racetrack.
14 So in the short time given -- and you have to -- you
15 have to include that it has been wet and it has been
16 cold. So it has deterred us from going door-to-door.
17 But in that short time, we are getting reports of over
18 70 to 80 percent opposition to this track. That's a
19 vastly different poll from the Phase 1 poll, Baselice
20 poll, I believe is his name.

21 I have in my hand exactly -- can you bring
22 me those petitions, please?

23 I have made seven copies. I didn't realize
24 there were nine commissioners. I have seven copies that
25 I've made you-all. I have originals as well. Excuse

1 me.

2 I have in my hand exactly 1,479 signatures.
3 Now, keep in mind that these are individual signatures
4 not household income.

5 I would like a copy included with the
6 application information. And I offer them to
7 demonstrate the level of divisiveness and distrust that
8 this has elicited from our citizens and which I intend
9 to clearly highlight for you.

10 The trust of Pflugerville citizens have been
11 trampled. The ease at which this almost slid through
12 the approval of the Racing Commission back in August
13 makes one wonder. Not once did the Austin Jockey Club
14 owners agree to meet with neighbors, with neighborhood
15 interests in or near the proposed track.

16 MS. GIBERSON: Time.

17 MS. RUIZ: They did not meet with any
18 elected officials, the Pflugerville Council of
19 Neighborhoods, which is also called PCONA, or any other
20 entities before selecting, purchasing, or moving forward
21 on the proposed location.

22 CHAIR ROGERS: Ms. Ruiz.

23 MS. RUIZ: Yes.

24 CHAIR ROGERS: I ask you to kind of finish
25 up pretty quickly. You're out of time.

1 MS. RUIZ: Thank you. In conclusion, I
2 strongly hope that the Racing Commission will listen to
3 the constituents and the taxpayers' wishes. Please give
4 Pflugerville a chance to be the best it can be.

5 Thank you so much. And if you have any
6 questions?

7 CHAIR ROGERS: Any questions?

8 Commissioner Strayhorn.

9 COMMISSIONER STRAYHORN: I did. And I don't
10 know whether Ms. Ruiz or you were referencing -- I
11 haven't heard that poll discussed today, but I have
12 heard that poll. It was the Basalice's poll, that was
13 the one that was --

14 MS. RUIZ: It was paid by the Austin --

15 COMMISSIONER STRAYHORN: Austin Jockey Club.

16 MS. RUIZ: Yes, ma'am.

17 COMMISSIONER STRAYHORN: Maybe someone will
18 speak to that in a minute and I can ask them about that.
19 But again, your -- what you did was --

20 MS. RUIZ: I went door-to-door. There were
21 several of us in several subdivisions in Pflugerville
22 when they were appalled that this racetrack was coming
23 in, we came together as a group and went door-to-door.
24 And from those signatures, Commissioners, again 70 to 80
25 percent of the citizens in Pflugerville opposed the

1 racetrack.

2 CHAIR ROGERS: Okay. Thank you.

3 We have -- at this point, I've got six
4 people who are signed up against, three people more who
5 are signed up for. And of the three people for, all
6 three of them either have an interest or they are --
7 they're an interested party.

8 And so, in fairness here, what we're going
9 to do, we're going to take about a six-minute break.
10 We're going to be back at 2:00.

11 I will -- we will hear both sides of this,
12 but I think I will extend, since they are people who are
13 directly involved with financial interest involved in
14 this, I think I will extend twice the time to those
15 people.

16 MR. REESE: No. No.

17 CHAIR ROGERS: Yes.

18 MR. REESE: The citizens have a financial
19 interest.

20 CHAIR ROGERS: I know citizens have interest
21 in this, but the landowner in this case, I think, is
22 someone that we need to spend a little bit of time
23 talking to.

24 COMMISSIONER STRAYHORN: Mr. Chairman,
25 before we break, I just want to clarify, I'm still

1 trying to find some other numbers, but I was going to
2 clarify --

3 CHAIR ROGERS: Yes. Go ahead.

4 COMMISSIONER STRAYHORN: Each track would
5 have to have over \$100 million from live racing before
6 it is taxed. So the gentleman's statement was correct
7 that we're not getting taxed for the live racing.

8 The -- just for the record, the
9 five-year-old review of pari-mutuel raising has -- 1999
10 it was 4,676,860. 2000 was 4,933,323. 2001, 4,936,353.
11 2002, 4,982,805. 2003, 4,615,249. So.

12 CHAIR ROGERS: Thank you. We stand in
13 recess for five minutes.

14 (Brief recess.)

15 CHAIR ROGERS: Okay. Call back into session
16 here.

17 We will begin. And to clarify where we are,
18 so that everybody understands what we're doing one more
19 time. I have -- actual have seven people who are
20 against who will be speaking. I have four people who
21 are for and two of those four people will be given a
22 little additional time.

23 Okay. We'll begin with Ann Wenneson,
24 W-e-m -- I'm sorry, maybe e-s-o-n, even, or e-r-o-n.
25 And then we will move to Rick Murphy, Judy --

1 Jody Brockhausen and David Hooper. And all of these
2 will be three minutes.

3 MS. WENNESON: Hello. My name is
4 Ann Wenneson. You had asked earlier if one of the folks
5 had ever been to a racetrack. My husband's adoptive
6 parents are into racing. But my husband and myself are
7 both opposed to racing.

8 Also, you mentioned, sir, to the Baptist
9 minister that there wasn't going to be a casino brought
10 in. I think that kind of misses the point. The slot
11 machines are going to be brought in or video slot
12 machines. And these are known as the crack cocaine of
13 slot machines. They're very addictive. It's not just a
14 problem of a racetrack, it's a problem with slot
15 machines. The people of Pflugerville oppose this.

16 There was a lady here from the community who
17 represented the business folks. And she was hoping that
18 this would generate income. Unfortunately, there's an
19 economic negative to gambling. It hurts. Not helps
20 existing businesses. It siphons away discretionary
21 dollars that might have been spent at local shops.
22 Donald Trump has even admitted to this.

23 Also, the social costs associated with
24 gambling, such as losses due to crime, additional law
25 enforcement costs and gambling addiction treatment costs

1 and where productivity have not been addressed.

2 I am representing myself, like I said. But
3 I have worked as a citizen on patrol. I've helped the
4 police department with traffic patrol and also with
5 parades. I can tell you that the police department is
6 stretched thin. They don't have enough resources to do
7 the job that they have now. If they have more crime
8 coming into the area, it's going to be more difficult
9 for them to do their job. This is just to invite crime
10 into our home. We don't want crime. We already have
11 problems with gangs from the Austin area.

12 And, you know, like I said, the
13 Commissioners want money, but this is not going to help
14 bring in money. The police department doesn't even have
15 enough money for proper radios for their cars. They
16 have to resort to use equipment which puts the police
17 officers in danger.

18 Additionally, besides that, some of the
19 police officers have complained to me about not having
20 enough members on the force. And our City Commissioners
21 have not given the police officers the support that they
22 need.

23 If the police officers aren't getting the
24 support that they need under regular circumstance, I
25 don't understand how people with -- believe that the

1 police officers would get more support with the
2 racetrack coming in, because this is going to burn up
3 their resources even more.

4 So that's about all I have to say. One
5 thing that hasn't been addressed is addiction.
6 Addiction has been a problem in my family.
7 My father-in-law is an alcoholic. My husband has had a
8 problem with some addiction. And I can tell you that
9 addiction is -- not only runs in families, but people
10 that have addiction usually have more than one type of
11 addiction. Could be alcoholism, it could be porn, it
12 could be gambling.

13 MS. GIBERSON: Time.

14 MS. WENNESON: Thank you.

15 CHAIR ROGERS: Just before you leave, what
16 is your last name, again.

17 MS. WENNESON: Wenneson, W-e-n-e-s-o-n.

18 CHAIR ROGERS: Ms. Wenneson, just for the
19 record, one thing I'd like to correct. If I said this,
20 I think I was misunderstood. I didn't say that there
21 won't be any slot machines anywhere. I said that's not
22 something we really can address today, because that's
23 really up to the Legislature.

24 At this point, there are no slot machines.
25 It is not a rasino. It could be at some point. We

1 don't have any say over that at all. That is a
2 legislative issue. Just --

3 MS. WENNESON: I'm sorry. I misunderstood
4 you.

5 CHAIR ROGERS: No, that's fine. I just
6 wanted to be sure that you and everybody else
7 understood. It's not that there might not be at some
8 point. But today, that -- it's not.

9 MS. WENNESON: Okay.

10 CHAIR ROGERS: Okay. Thank you.

11 Mr. Murphy.

12 MR. MURPHY: Good afternoon. My name is
13 Rick Murphy. I'm the director of the Pflugerville
14 Community Development Corporation. We are tasked with
15 bringing new jobs and dollars to Pflugerville and
16 increasing the tax base.

17 I have heard some talk about the people from
18 the racetrack and not having met with folks in the
19 community and back and forth in the short time I've been
20 here. Just for the record, I would like to set the
21 Commission straight and perhaps the audience as well on
22 how this originally came about.

23 I first met with representatives of the
24 racetrack back in the fall of 2003. At that time, they
25 sat down in a meeting with myself, the former City

1 manager and the former mayor. And they outlined the
2 type of facility that they were looking to locate, which
3 was as Class 2 racetrack. And at that time, we pulled
4 out our community master plan, conceptual master plan
5 which highlighted an entertainment district that was
6 drawn, essentially within a radius of the intersection
7 of Pecan and 130, obviously, being the type of facility
8 that they were looking for. They were looking for ease
9 of access and transportation. They were impressed that
10 we had an entertainment district and had the foresight
11 to look to an entertainment district here.

12 I directed them or suggested that they look
13 out in that area and brought to them a list of all of
14 the people in the Pflugerville area that were dealing in
15 commercial real estate here that could go out and help
16 them in perhaps locating a piece of property.

17 That was in the fall of 2003. It took them
18 a considerable period of time to find a property owner
19 and a site that worked specifically for them. They were
20 in negotiations for the better part of, I believe, eight
21 months before they actually reached an agreement with
22 Mr. Timmerman. In fact, if I'm not mistaken, it was on
23 June 30th of 2004 before they actually reached an
24 agreement with the landowner for a specific site.

25 Any discussions prior to having reached a

1 decision with the landowner would have been entirely
2 premature. I'm sure I'm not telling you anything that
3 you are not aware of. And that the license allows
4 them to consider a site anywhere in Travis County. They
5 could have been and were looking at other sites in
6 Travis County as well. It would have been inappropriate
7 for me, it would have been inappropriate for them or
8 anyone else to have held public discussions on a piece
9 of property that was merely under consideration.

10 I'll go one step further. The piece of
11 property that they finally ended up on was not in the
12 city limits of Pflugerville. It's still not in the city
13 limits of Pflugerville. This is in the county's domain
14 here. And so if anyone would have been brought into a
15 public meeting, it would have been the County officials.

16 MS. GIBERSON: Time.

17 MR. MURPHY: Now, as to this site that they
18 ultimately ended up with. I'm sure there will be much
19 disagreement expressed to you here within the community
20 from individuals. But from a community and a planning
21 standpoint, they probably could have not chosen a better
22 location. It is over a mile from the nearest
23 subdivision. It's two miles from any church. It is
24 less than 500 feet from what will be one of the major
25 intersections off of 130, which is a major

1 transportation artery. And it is within the
2 entertainment district. There are even advantages in
3 being able to utilize and share some of the wastewater.
4 It's located right near the City of Pflugerville's
5 wastewater treatment plant and even has some abilities
6 in that.

7 So there was no attempt on the part of the
8 track or anyone in the community to keep any information
9 from anyone.

10 CHAIR ROGERS: Your time is up. If you'd
11 like to make just a closing sentence, you're welcome to.

12 MR. MURPHY: In close, I would like to say
13 that as soon as the land was closed on by the racetrack
14 people, they immediately scheduled meetings with the
15 City Council, the Pflugerville Community Development
16 Corporation and Travis County as soon as they closed on
17 that property, which was June 30th. And that's when the
18 public began to know and have input.

19 CHAIR ROGERS: Okay. Thank you. Are there
20 any questions for Mr. Murphy?

21 Yes. Commissioner Rylander -- I mean,
22 Strayhorn. I'll get that down.

23 COMMISSIONER STRAYHORN: We'll get Strayhorn
24 down before the day's --

25 CHAIR ROGERS: We're working on it.

1 COMMISSIONER STRAYHORN: Pflugerville
2 Economic Development Corporation. Explain. Give me an
3 update how that -- how you're structured and how you're
4 set up.

5 MR. MURPHY: Yes, ma'am. We're a 4B
6 corporation. We collect the sales tax for economic
7 development. I report to a board of directors who is --
8 who are selected by the City Council. And we generally
9 have two counsel people that serve on that board.

10 COMMISSIONER STRAYHORN: And I think, you
11 know -- and I appreciate what you said and most
12 certainly you do not disclose when you're negotiating on
13 property matters that public. I really have not picked
14 up today that the concern is how long it took to find
15 that site and all that you went through there. But I
16 think the concern is with how it has been expedited
17 since the public found out about it. I think that's
18 what the concern is. I think that's two different
19 things.

20 MR. MURPHY: And the City has held several
21 public meetings, which you have seen reported on TV
22 there. So there have been public meetings since the
23 site was annexed. They came to City Council. There was
24 a special public meeting held by the City Council. They
25 came and made a presentation before our group and

1 perhaps some others as well. But those are the ones
2 that I am aware of.

3 COMMISSIONER STRAYHORN: The only other
4 question I want to ask you. I was a little bit -- if
5 have heard what you were -- I've heard a lot of people
6 here today, people, I think, going back to the City
7 Council member who was here and the City manager all say
8 that, you know, the whole intent is to annex this area.
9 It's going to be done in December.

10 What I heard you saying is, really shouldn't
11 have been going to the counsel because it's in the --
12 it's in Travis County and there was -- you know, it was
13 not annexed, it was not -- I was a little -- I was a
14 little mixed up with what you were saying there when you
15 talked about how they really didn't even need to bring
16 it to the City because it's out in the County. So did
17 you feel like you should have taken it to Travis County
18 Commissioner's Court?

19 MR. MURPHY: Well, it certainly was not my
20 position to take it to the Commissioner's Court. I
21 actually work for the City of Pflugerville. I'm paid by
22 the City of Pflugerville. I'm an economic development
23 director for the City of Pflugerville.

24 COMMISSIONER STRAYHORN: Excuse me. Maybe I
25 misunderstood. Should they have taken it to the

1 Commissioner's Court and not to the City of
2 Pflugerville?

3 MR. MURPHY: They did take it to the
4 Commissioner's Court.

5 COMMISSIONER STRAYHORN: But they --

6 MR. MURPHY: They set --

7 COMMISSIONER STRAYHORN: But then I heard
8 them saying earlier that --

9 MR. MURPHY: They set up a meeting, as I
10 understand it, to take it to the Commissioner's Court as
11 soon after June 30th when they closed on the property as
12 humanly possible.

13 Now, I think, from my understanding, there
14 were some vacations in there, being in the summer and
15 all that. But I believe they had their initial meeting
16 with the County sometime in August, which was -- as I
17 understand it, as soon as they could after they closed
18 and they actually settled on that -- that particular
19 site.

20 But obviously, at some point, being in
21 Pflugerville's ETJ, the City of Pflugerville will annex
22 this. And when that all happens, that's for the City to
23 be worked out.

24 Obviously, the biggest issue that's going to
25 have to be addressed is Pecan here. I have a personal

1 hope that we could all sit down together with the County
2 and the City and work out -- and the racetrack folks and
3 work out this issue together. But we're all going to
4 have to work together to make sure that that meets the
5 needs of the community, meets the needs of the track and
6 meets the present concerns that we have with the park
7 being there, which already contributes significantly to
8 the traffic problems.

9 CHAIR ROGERS: Do you -- just to follow-up
10 here. Has the Austin Jockey Club asked you to
11 contribute any money from your economic development
12 group into this?

13 MR. MURPHY: Absolutely not. And that is
14 another reason, other than just professional expertise,
15 I never talk about ongoing negotiations until a site, if
16 you will, has been selected and purchased. But above
17 and beyond that, the Jockey Club has made no request for
18 any financial assistance from the City of Pflugerville
19 or from the Pflugerville Community Development
20 Corporation. So there was no need to have any meetings
21 with my board or the City Council not being in the City
22 limits and not asking for any City participation.

23 CHAIR ROGERS: Okay. Any other questions.

24 Mr. Brown, did you need to clarify something
25 here?

1 MR. BROWN: Brian Brown with the Austin
2 Jockey Club. I did want to address the commissioner's
3 question. And that is, we -- we signed the agreement
4 the end of June. Mr. Timmerman told us that he thought,
5 and for good reason, he'd be the best person to approach
6 both the City Council and the County Commissioner for
7 that area, Commissioner Sonleitner. I believe in July
8 he took a vacation in Colorado. And you know, I don't
9 know what the Commissioner's schedule was like. The
10 first date that they could get together was August the
11 2nd.

12 At that time, Mr. Timmerman informed
13 Commissioner Sonleitner of our plans. By that point, I
14 believe, other meetings had taken place with
15 Mr. Timmerman, which he can talk about. That was in
16 advance of the August 14th meeting. So we thought all
17 along that we'd been out talking to people we need to.
18 In hindsight, I wish we would have done more, we would
19 have written more letters, you know, probably gone to
20 the Austin American Statesman and had them written a
21 story, but we didn't. But we were trying to do what we
22 thought was the right thing, which was go to these
23 people.

24 And I'll tell you, we did this, in part,
25 because we didn't do this five years ago. And I say,

1 five, it's four years and nine months ago. We did not
2 go to the City of counsel of Austin before we came to
3 this Commission. You know, we learned that it's
4 probably better to let the other agencies and
5 commissions know. But we did not do that four years and
6 nine months ago. I wish we would have, might have saved
7 us sometime. But we thought we were doing more this
8 time than four years and nine months ago.

9 COMMISSIONER STRAYHORN: Mr. Brown, I hope
10 you understand, too, my concern is not more than four
11 years ago or more this time than last time. My concern
12 is -- and I heard -- I've heard a number of people speak
13 to the fact that it's been a -- from a year -- first one
14 said a year and a half. But if it was Economic
15 Development Corporation has been on it -- well, not
16 quite a year and a half. Little over a year if it was
17 fall of 2003. But it took that long until the end of
18 June to lock in on the site, whether it's Mr. Timmerman
19 going on vacations or whatever it is, the public really
20 has only been aware of this -- even initially aware of
21 this, it seems like, from -- from -- three-month period.
22 So, you know, public processes take awhile and public
23 participation up front certainly takes awhile. And
24 you're right, it always works better if you pull people
25 to participate in the public up front.

1 MR. BROWN: We get to unfortunately learn
2 from our mistakes. But I will tell you, though, there's
3 been so much publicity about this. When I walked up to
4 the City Council chambers for this meeting where the
5 City Council did vote, support our application, every
6 news station in town was there, the *Austin American*
7 *Statesman* was there, a reporter from the *Pflugerville*
8 *Pflag* was there. There was a lot of public knowledge
9 about this.

10 COMMISSIONER STRAYHORN: Since those
11 meetings, I concur. It's before that. It's just that
12 time frame.

13 MR. BROWN: I wish we'd have done things
14 better. I'll admit that in a heartbeat. I can think of
15 probably 10 or 15 things that we could have done to
16 better publicize this. I do think, regardless, we've
17 been through this in three public meetings with
18 Pflugerville City Council. I've appeared before the
19 County Commissioners twice. We've had meetings with the
20 director of the TNR with the County. We've done a lot.
21 A lot of people know about this. I've had more of my
22 friends from Austin call me, because they've seen the
23 news stories. This is real -- this concept has been
24 beat around a lot and talked about a lot.

25 But notwithstanding that, I wish we'd have

1 done things a little bit better.

2 CHAIR ROGERS: Mr. Brown, somebody told me
3 there had been five articles in the *Pflag* since August.
4 Could you confirm that or do you know?

5 MR. BROWN: I can't confirm it. I've seen
6 quite a few. I do get them either by e-mail or on the
7 Internet. Somebody will send them to me. I can't
8 confirm that. I would guess that's probably pretty
9 close. The *Statesman*, I would bet, has probably done
10 something similar.

11 CHAIR ROGERS: Okay. Thank you.

12 MR. BROWN: Thank you.

13 FROM THE FLOOR: I notice the format is he
14 gets to clarify when factual errors occur. Are you-all
15 interested in when a factual error --

16 CHAIR ROGERS: Absolutely.

17 MR. WOOD: I'm scheduled to speak.

18 CHAIR ROGERS: If you would tell us who you
19 are, please.

20 MR. WOOD: I'm Bruce Wood.

21 CHAIR ROGERS: Okay.

22 MR. WOOD: There's an orchestrated effort
23 that's taking place from Rick Murphy. And we've got
24 some documents we'll give to you that show much deeply
25 he's been involved in that.

1 But I wanted to clarify. He said fall of
2 2003. There was a document he wrote October 28th, which
3 says here, clearly -- I'm going to read to you,
4 paraphrase it, "I first met with the representatives of
5 Retama Park in San Antonio in the summer of 2003" -- so
6 he can't even recall the date correctly on when he
7 started this process -- "suggesting that they consider a
8 location in our entertainment district as outlined in
9 our comprehensive master plan. At the time I first met
10 with him, I also directed him to John Pfluger, who's
11 also on the PCDC board, to find a suitable location and
12 the need to negotiate the project to a successful
13 conclusion." So he's grossly underestimating to you-all
14 his effort. And I've got a couple of documents we'll
15 share to you later. But that summer date is much
16 different from what he just told you.

17 CHAIR ROGERS: Okay. Thank you.

18 Jody Brockhausen.

19 MS. BROCKHAUSEN: I'm Jody Brockhausen. I'm
20 really glad you brought up those points about the media.
21 Because the media did not begin to cover the story until
22 after I learned about it, until after I raised the
23 awareness of our community, because I was mad. I
24 learned on the 9th of October from a friend that
25 Pflugerville had planned to build a horse racing track.

1 Now, I'm a busy mother of four. And I
2 pretty much stay home all the time and watch my kids.
3 So I have not been paying much attention to what's been
4 going on outside of my house. But when I heard about
5 that, boy, I was on the warpath, I tell you what. And
6 I -- you know, I don't want to say that I am the only
7 person who raised the awareness. It was a group of
8 angry citizens.

9 Now, October 9th, I learned about this
10 track. The meeting of variance was held October 12th.
11 Okay. The variance was a vote to see if it was all
12 right to start planning the track before the annexation
13 issue.

14 All right. The room was filled to capacity.
15 Every person who spoke at that meeting, except maybe
16 one, opposed the track. There were, I believe, 17 who
17 spoke. But -- I'm sorry. All right. After the 17
18 people or so who spoke against the track, the vote was
19 made and it was unanimous, the votes were present for
20 the track.

21 Now, we grouped outside and we said, "Okay.
22 We need to do something, because they're going to just
23 take this and it's going to happen if we do not try to
24 fight it. And it's our duty to try and save this town
25 from this occurring."

1 I do not wish to slight the horse racing
2 trade. My mother dated a horse trainer. I have been to
3 horse tracks. I'm from Seattle and I've been to
4 Portland Meadows and, also, the Seattle horse racing
5 track. It's not Emerald Downs, but when I was younger,
6 it was called Longacres.

7 Anyway, I hope -- anyway, I'm sorry, I'm a
8 little bit all over the place.

9 But after the 12th, we started to feel an
10 obligation to raise awareness of the track in the
11 community.

12 Now, I have some information that might be
13 interesting to you about the *Pflugerville Pflag*. The
14 *Pflugerville Pflag* has a subscription base of 2000.
15 Now, according to the director of the Pflugerville
16 library, they have not been consistently receiving the
17 *Pflugerville Pflag*. The *Pflugerville Pflag* is the only
18 source of news for the Pflugerville community. It is
19 important that citizens read the *Pflugerville Pflag* to
20 be informed as to what is going on in City Council
21 meetings.

22 All right. People are not putting that on
23 the top priority of their list when they charge \$33 a
24 year for the *Pflugerville Pflag* and they do not offer an
25 option for a monthly or quarterly or half yearly

1 subscription. You must pay the complete \$33.

2 Now, Pflugerville is a community --

3 MS. GIBERSON: Time.

4 MS. BROCKHAUSEN: -- of families. If you
5 look at the school roll, the Pflugerville Independent
6 School District has 22 schools in it. Now, I was -- I
7 was generous and I only selected the schools that were
8 physically located in Pflugerville. And I tallied up
9 all the students who attend that -- the Pflugerville
10 schools and that's 9,400 -- if I'm right. That's 35.7
11 percent are public schools in Pflugerville. I did not
12 count home schoolers. My children are home schooled.
13 Does not count private attendees. My neighbors go to a
14 private school.

15 All right. So I was -- I do not want to
16 change the number, because I do not know the facts and
17 the data of people who do not go to public school. But
18 I would say well over 40 percent of the population of
19 26,500 citizens of Pflugerville are children.

20 CHAIR ROGERS: Okay.

21 MS. BROCKHAUSEN: Now, if we had a
22 auditorium representing the Pflugerville community, that
23 would be more than half of -- well, no, more than a
24 third. So it would be nearing half of this auditorium,
25 children. And I -- I apologize --

1 CHAIR ROGERS: No. You're over time --

2 MS. BROCKHAUSEN: I apologize.

3 CHAIR ROGERS: -- but if you would just sort
4 of sum up with a last sentence here we would appreciate
5 it.

6 MS. BROCKHAUSEN: I oppose and I just -- I
7 would be very grateful to you all if you would give the
8 families of Pflugerville truly a wonderful opportunity
9 to give thanks this Thanksgiving Thursday and reject the
10 application of the Austin Jockey Club from moving to
11 Pflugerville. There are many other tracks to attend in
12 Houston and Manor and other areas.

13 And I thank you very much for your time.

14 CHAIR ROGERS: Thank you, Ms. Brockhausen.
15 Okay. David Hooper.

16 MR. HOOPER: Mr. Chairman, members of the
17 Commission, I'm David Hooper, the executive director of
18 the Texas Thoroughbred Association, representing 2300
19 owners, breeders and others active and interested in
20 thoroughbred racing and breeding industries in Texas.

21 The Texas Thoroughbred Association board of
22 directors had a regularly-scheduled meeting this past
23 Saturday. And at that meeting, board of directors
24 unanimously voted to support the relocation of Austin
25 Jockey Club to Pflugerville.

1 The Texas Thoroughbred Association also had
2 supported the relocation of the Austin Jockey Club
3 license from Round Mountain to Travis County when that
4 issue came up a few years ago.

5 The Texas thoroughbred industry, at present,
6 is not being served by the present thoroughbred racing
7 opportunities in Austin. The Austin marketplace itself
8 is growing. It deserves a first-class racing and
9 simulcast facilities, which it doesn't have at this
10 date. We need to maximize the potential for the Austin
11 marketplace. And it can be done at a first-class
12 facility like the one being proposed by the Austin
13 Jockey Club.

14 The subject of State taxes was brought up by
15 Weston Ware. There are over 40,000 people permanently
16 employed in the horse and greyhound racing industry in
17 Texas today. And the State tax revenue that's generated
18 from ancillary businesses and from horse racing
19 activity, outside of live racing, outside of
20 simulcasting is \$157.2 million, according to a study
21 done by Rick Perryman in 2003.

22 It's already been referenced to the fact --
23 and I found this to be true when I was out there last
24 week, Manor Downs is accessible by a two-lane road. And
25 it hasn't had a significant traffic problems, although

1 your car gets bumped around on the washboard type
2 roadway.

3 By the way, the -- the total business
4 activity for agriculture, the horse industry, today
5 represents four percent of the agribusiness industry in
6 the State.

7 I was present at the October 26th
8 Pflugerville counsel -- City Council meeting. There
9 were about six industry representatives, those who work
10 full-time in the industry, who were present there. I
11 think we estimated that the presentations that night
12 would probably go to six to one to 10 to one against the
13 proposed relocation of Austin Jockey Club to
14 Pflugerville. It came as a surprise to us, it was about
15 50/50 and it may have been two or three more who spoke
16 in favor of the relocation than those that were opposed.

17 The opposition has argued against locating a
18 track in the family community of Pflugerville. When you
19 hear those arguments, and you have heard them, I'd like
20 you to consider this: Is Arcadia, California, worse off
21 because Santa Anita has been there since 1934? Is
22 Louisville, Kentucky, worse off because Churchill Downs
23 has been there for 129 years? Is Hallandale, Florida,
24 worse off because Gulfstream Park has been there since
25 the early '40s? Or a little closer to home, is Selma

1 worse off because Retama Park has been present there for
2 the past 10 years? Or is Grand Prairie worse off
3 because the Lone Star Park is located there and has been
4 since 1997?

5 The answer to those questions are no, no,
6 no, no, and no. And with that, I'd be pleased to answer
7 any questions if you might have them.

8 CHAIR ROGERS: Any questions of Mr. Hooper?

9 Thank you.

10 Scott Grover.

11 MR. GROVER: Thank you, Commissioners. My
12 name is Scott Grover. I have been a resident of
13 Pflugerville for about six years. I'll be brief.

14 I have been a little surprised at what
15 hasn't been said here today. It seems to me -- and I am
16 ignorant of all of the information that is in front of
17 you. But part of -- it seems like to me, part of your
18 responsibility is to regulate the racetrack industry.
19 And part of that regulation would be balancing demand
20 with supply, okay.

21 Before you make your decision, I would just
22 ask: Where is the evidence that there is this huge
23 pent-up demand to support two tracks? I'm not aware
24 that there's -- that Manor has so many patrons that they
25 can't park their cars. I'm not aware that there are so

1 many patrons to Manor that they don't have enough seats.
2 Where is this demand? Where is their market study that
3 shows that there's enough people to support these two
4 tracks?

5 That's my only comment. Thank you.

6 CHAIR ROGERS: Any questions of Mr. Grover?

7 Okay. Thank you.

8 Next, I think we'll hear from Tim Timmerman,
9 who owns the property. And Mr. Timmerman, we're going
10 to allow you six minutes.

11 MR. TIMMERMAN: Good afternoon,
12 Commissioners. My name is Tim Timmerman. I am the
13 landowner of a portion of this property. And I
14 represent family partnerships that own the additional, I
15 guess, 165 acres. There's a 75-acre tract and there's
16 also a 165-acre tract that makes up the application.
17 And I think it's going to be a portion of those two
18 tracts where this track would be located.

19 This property is on the east side of
20 Pflugerville. I grew up on the farm immediately across
21 the street from this -- from this property. This
22 property was owned by my grandfather, up until his
23 death. And then it was inherited by my father and my
24 aunt and my uncle. And I ended up buying my uncle's
25 portion out several years -- actually, it was in 2003,

1 the 75 acres.

2 My connection with this property has been
3 long and dear. It's a property that, obviously, means a
4 lot to me. I grew up there. I grew up riding horses
5 and cruising around the trails along the creek and the
6 property.

7 My family, my mom and dad, still live across
8 the street in the same house that I was born in -- not
9 born, but raised in. We obviously still have a very
10 large family connection to Pflugerville. In addition to
11 these two properties, across the street, we
12 have approximately 1500 acres of property that is owned
13 by the family of -- various family partnerships.

14 My interest in this property, obviously, is,
15 you know, I'm a landowner now of the property. But
16 beyond that, I grew up in the community and I'm also
17 interested in seeing economic development move forward
18 in the community of Pflugerville. Pflugerville has
19 languished behind a lot of the other communities in the
20 Austin area, such as Round Rock and Georgetown along the
21 Interstate 35 system. But now I think it's
22 Pflugerville's turn to have the economic development
23 that a major highway will afford, which 130 is that
24 highway.

25 So I'm very interested in finding

1 opportunities for this property that will be unique and
2 enhance the community of Pflugerville. And I really
3 think that this will, because I'm going be involved in
4 it.

5 As a matter of fact, when the -- I guess the
6 original meeting started taking place or talked about
7 this happening in 2003, I received a phone call from
8 Mr. Pfluger and, basically, I shrugged it off. I was
9 not interested in the horse track facility. It just
10 didn't seem to make sense to me.

11 And it was probably several months -- I
12 really don't think I really picked up and started
13 looking at this as a serious opportunity until somewhere
14 around March of '04. And I did some research on the
15 industry. I did some research on Retama Park. And I,
16 quite frankly, had very little exposure to horse racing.
17 I was in New York on a business trip. I've been to
18 Aqueduct and had a good time with some of the tracks up
19 there at New York. But beyond that, it was just not
20 something that I had participated in.

21 But the more I learned about it, the more
22 interested I got. I went to Retama, visited with Brian.
23 Brian showed me Retama Park. And I was very impressed.
24 Impressed with all the families that -- the family
25 activity that it could actually be. So I -- my interest

1 kind of peaked.

2 So finally, moving back to the time frame of
3 around March, April of 2004, we finally started meeting
4 and started discussing the prospect of a racetrack. I
5 finally got comfortable, in my mind, that it was the
6 right thing to do for this property.

7 That having been said, we started looking at
8 the location and the site and the site plan. And we
9 came to the conclusion where it should go on the
10 property.

11 And finally, on June the 30th, I believe,
12 our contract was signed and inked for the two parcels
13 that make up this application.

14 By the way, Mr. Murphy misspoke, he said
15 that the property has been closed upon, but it has not
16 been closed upon. It's been contracted for. So little
17 clarification there.

18 So on June 30th, we signed the contract for
19 the property. I think I went on vacation sometime after
20 the first week, somewhere around the second week in
21 July. During my vacation, I contacted the County
22 office, Karen Sonleitner, asked for a meeting. And
23 between my vacation and her office time, the earliest we
24 could get to the meet -- have a meeting was in early
25 August, probably August the 2nd, the first week in

1 August. That was the first meeting that we could both
2 sit down and have -- so that -- and my plan was to
3 introduce this to the city manager of Pflugerville,
4 which we had a discussion somewhere in the same time
5 frame. And also, I wanted to -- as a courtesy, I wanted
6 to meet with the County in person before it went out in
7 the press. I just thought that would be the common
8 courtesy to -- to have with the elected officials.

9 So that's kind of where we -- how we ended
10 up on the -- at the first meeting in August. First of
11 all, before June the 30th, there was no contract, there
12 was no deal, there was nothing to talk about as far as I
13 was concerned. After that, the first time we could get
14 really moving with the vacations and schedules was
15 probably in August.

16 So we had our meeting. And right before the
17 meeting, there was an article in the newspaper before
18 just immediately preceded our -- I think it was in the
19 *Austin Business Journal*, that immediately preceded our
20 meeting that we had with the County.

21 And at that meeting, I think --

22 MS. GIBERSON: Time.

23 MR. TIMMERMAN: Karen was there. We had
24 Sam Bisco, we had, I believe, Joe Geeseman and I think
25 the County's attorney. And we had that meeting. And

1 they expressed their concerns over the road and those
2 issues and things like that.

3 But anyway, it was -- the briefing was
4 totally set up just to brief the County on this
5 potential use of the property that was in the County.

6 CHAIR ROGERS: Mr. Timmerman, your time is
7 up, but if you'd like to make a closing remark, it would
8 be fine. And then we can answer questions.

9 MR. TIMMERMAN: Okay. Well, in -- in
10 conclusion, I think the -- I'm excited about the
11 prospect of this track. I think it would be a good
12 positive thing for Pflugerville. The Council has voted
13 unanimously to have this. I think this would be a good
14 economic development proposal for the City and will
15 bring positive things to the City.

16 I would be happy to talk about the road, if
17 you want to.

18 CHAIR ROGERS: About what?

19 MR. TIMMERMAN: About the roadway.

20 CHAIR ROGERS: I think that would be of
21 interest to us at this point, because that's a key
22 issue.

23 MR. TIMMERMAN: Okay. Sure. Well,
24 originally about, I would say approximately a year to 18
25 months ago -- well, let me back up and show you a map.

1 CHAIR ROGERS: I think we have a copy of
2 that map.

3 MR. TIMMERMAN: Okay. You have a copy of
4 it.

5 CHAIR ROGERS: Yes.

6 MR. TIMMERMAN: Well, to show you what I'm
7 talking about. This is SH-130 along here. Here is
8 FM -- Farm-to-Market Road 685. Here is the site. And
9 connected it is Pecan. This is Pecan. It's a two-lane
10 from here to here. Two-lane county road. The
11 metropolitan park that's been discussed is over in --
12 just to the south of Pecan, accessed through this road
13 which runs right along our site here (indicating).

14 We, basically -- our property -- our family
15 owns the property on both sides of the road from this
16 subdivision all the way out to the State Highway 130
17 project.

18 I would say around 18 months ago, we were
19 approached by the County about a right-of-way donation
20 for that project. And the proposition was, if we
21 will -- if we will donate the right-of-way, the County
22 would fix the road. I said, "Well, that's a very
23 interesting proposition. I think we're interested in
24 doing that."

25 Fast -- that was back in, I would say, 2003.

1 Fast forward to the time that I meet with Brian Brown
2 regarding this application for the Austin Jockey Club.
3 I told Brian that the road was going to be done by the
4 County, because that was my understanding at the time.
5 The County had made that commitment, if I would donate
6 the right-of-way, which I would agree to.

7 And I believe that's where some of the
8 confusion came in as to the original application, which
9 Brian indicated that the road would be improved in the
10 near future. He was going off information that he had
11 received from me and I was going off of information that
12 I received from the County.

13 The County, obviously, has had a change of
14 heart in this process and they no longer wish to claim
15 the road, but I was not involved in that. So I think,
16 hopefully, that will clear up some confusion with the
17 road.

18 As to going forward with the road, I believe
19 that there will be a solution forthcoming very soon.
20 I've had some conversations with the -- with the State.
21 I've had conversations with the City. I think there is
22 a partnership that could be formed with the landowners
23 and the County and the City and the State to get this
24 road taken care of.

25 What I want you to understand, though, is

1 the road has to be improved no matter what. If that
2 land stays out there as agricultural grazing land, like
3 it is now, crops are growing on it, it still has to be
4 improved. You've got a major state highway on the east,
5 you have Pflugerville on the west. And that is going to
6 be the main gateway into Pflugerville from this H-130.
7 So there's nothing from this property that the roadway
8 has to be approved.

9 So I think there is no question that the
10 road issue is paramount on everyone's mind. I also
11 think that, collectively, we can all get it all worked
12 out.

13 CHAIR ROGERS: Okay. Any questions for
14 Mr. Timmerman?

15 COMMISSIONER STRAYHORN: Yes.
16 Mr. Timmerman, you said you had discussions. Did you
17 have any commitment from the County or City or the State
18 for funding that road?

19 MR. TIMMERMAN: Do you mean today?

20 COMMISSIONER STRAYHORN: Today. Do you have
21 commitment today for any funding from any County, City
22 or State?

23 MR. TIMMERMAN: There has been discussions
24 to that effect, but there's no -- there's no standing
25 commitment at this point. There is -- everyone --

1 everyone recognizes the need for that road, whether or
2 not this track is there or not.

3 COMMISSIONER STRAYHORN: Sure.

4 MR. TIMMERMAN: There is potential to build
5 probably 12 to 1300 homes just on the south side of
6 Pecan where this would go. That would generate probably
7 even more traffic than this racetrack will.

8 COMMISSIONER STRAYHORN: I agree about
9 everybody's concerned about the road.

10 Getting back to the resolution that was read
11 to us by the council member from the Council they talked
12 about, if I can find the notes. But it should have been
13 approved before they were put in there.

14 MR. TIMMERMAN: We've been talking about
15 this park that's out there. That's a very significant
16 traffic generator. And everyone knows the County, the
17 City, everyone knows in this process that the road has
18 to be improved. And I -- as I've stated, no matter what
19 goes in that property, the road has to be -- if anything
20 goes on the property, that road has to be improved.

21 CHAIR ROGERS: Commissioner Boyd, you had a
22 question.

23 COMMISSIONER BOYD: Yes. And I need to
24 clear up some misunderstanding.

25 You said about 18 months ago you were

1 approached by the County about giving them the
2 right-of-way. Continue on what you said earlier,
3 please.

4 MR. TIMMERMAN: I was approached by the
5 County. There is, currently along Pecan, approximately
6 60 feet of right-of-way. For the facility that the
7 County and everyone agrees, I think, is necessary for
8 that corridor, there is a necessity of around 120 feet
9 of right-of-way. If you add it all up, it's about 10
10 acres, maybe 10 to 12 acres of right-of-way. A
11 significant amount of right-of-way required to widen
12 Pecan.

13 And we are willing to do that. We were
14 willing to do it then and we're willing to do it now.
15 But that proposal, I guess, was taken off the table.

16 CHAIR ROGERS: Any, okay. Any other
17 questions?

18 Thank you, Mr. Timmerman.

19 We have four folks I'm going to call here in
20 a row. Mr. Hankins, Mr. Northern, Mr. Wilson and
21 Mr. Wood. And if the four of you would come. And then
22 we just have one other person after you.

23 MR. HANKINS: Yes, I'm John Hankins. I'm
24 retired from IBM. IBM manager for 30 years. I also
25 have lived in the area about a mile from the racetrack

1 proposed site for about 30 years.

2 A gentleman here while ago said that he'd
3 been in the Pflugerville area a year and he knew the
4 heart of Pflugerville. I don't believe that. I think I
5 know the heart of Pflugerville better than he does. And
6 I guarantee you the people I talk to go along with what
7 I said earlier, that 70 percent of the people in
8 Pflugerville are against this racetrack. The people of
9 Pflugerville have not been given a voice. The people of
10 Pflugerville -- this is being rammed down their throats.
11 They have not been given a choice. They have not been
12 given a voice. They have not been given a vote. And I
13 don't think that's right. Whatever happened to "We, the
14 people". Is that gone? I don't understand it.

15 Anyway, the -- I have a lot of stuff here on
16 the traffic. And it has already been covered, so I'm
17 briefly going to touch on some of it. The time is
18 slipping away. And somebody said while ago that a slice
19 of pizza changed somebody's opinion. I didn't think it
20 would to them, but as it is getting later.

21 The status of Pecan Street, as has been
22 said, is terrible. I live a mile from the racetrack.
23 Trying to get to Pflugerville some days takes me 45
24 minutes to go a mile and a half. I have grandkids that
25 travel that road. I have kids, a wife. And that road's

1 dangerous. People come out of the -- out of the soccer
2 field. They don't even look. They pull right out in
3 front of you. It is very dangerous.

4 There's one other thing I'd like to ask. Is
5 it really feasible to put a racetrack next to soccer
6 fields where hundreds and hundreds of kids are out there
7 next door to it? I don't understand that. But I don't
8 understand everything.

9 The Jockey Club's first application
10 regarding this location said there were no issues with
11 widening Pecan Street. As we've heard over and over
12 today, there is no money, there is no agreements, there
13 is nothing in the plans right now for widening Pecan
14 Street. And Pecan Street is a two-lane road. Who would
15 want to put a racetrack on a country two-lane road? I
16 just can't believe that that would happen. The
17 estimates for widening this road is from 7 to \$8
18 million. 7 to \$8 million. And there is no money
19 available.

20 Pecan Street at Emmanuel and 685 is a very
21 bad intersection. It backs all the way up into
22 Pflugerville, through downtown -- have you seen
23 Pflugerville? The little narrow street downtown? It's
24 like a funnel coming in. You can't get through it. And
25 they're wanting to put more traffic on it.

1 Traveling west of this site, the
2 intersection of Pecan and Emmanuel, that's what I'm
3 talking about, will go east and west through the
4 narrowing of Pflugerville is dangerous. And they're
5 requesting also -- the Jockey Club is requesting
6 exemptions on the number of stalls that they have. The
7 number of stalls, noting that most of the live racing is
8 going to be coming -- being shipped in. So that's also
9 going to increase the traffic.

10 You know, again, the racetrack next to kids
11 and a soccer field just don't go good with me. Did you
12 hear anybody here today that didn't have skin in this
13 game that was for the racetrack? Nobody. I didn't.
14 Maybe I misunderstood them. Let the people speak. Let
15 the people speak. Slow down. This has been going too
16 fast. Just slow it down and let the people have a
17 voice.

18 Thank you.

19 CHAIR ROGERS: Thank you. Okay. You were
20 Mr. Hankins; is that correct?

21 MR. HANKINS: I'm sorry?

22 CHAIR ROGERS: Okay. Go ahead.

23 MR. NORTHERN: Mike Northern, resident of
24 Pflugerville. And I oppose the approval of this
25 licensing this horse track in Pflugerville.

1 Wow, what a day. I scratched through most
2 of what I wrote down for you to talk about. It's all --
3 we have all our exhibits and you can get a copy of
4 those. If you will take time to study this thing, we'll
5 refer to some of those documents. We agree with East
6 Austin when they said they didn't want it. We don't
7 want it. As we talked to citizens, we don't want a
8 racetrack in our community.

9 You can take everything that was said today.
10 And I'm usually quoted little phrases, but this is the
11 wrong business in the wrong place at the wrong time.
12 Maybe later, at some other time, even though I would
13 never be for it, I couldn't say maybe it was the wrong
14 place at the wrong time. But right now, it's the wrong
15 place at the wrong time. Everything is out of sync.
16 Let's get things in line. Let's do slow down. Let's
17 find out what the citizens want. Let's give them an
18 opportunity to speak.

19 There are one 1,000 homes approximately.
20 Someone said a mile. I think it's a little closer than
21 that. I live in one of the neighborhoods. I don't
22 think it's a mile away. From the racetrack itself, it
23 might be, if you go all the way across the property that
24 you have to to get to it.

25 Mr. Brown mentioned that there's residents

1 that live near the racetrack in Selma and they have no
2 problem with it. They're naming their subdivisions
3 after Retama. Those people chose to move there by a
4 racetrack. Those businesses chose to go there. Those
5 churches and schools you talk about chose, we did not.
6 We obligated ourself to a mortgages and to houses, not
7 knowing the racetrack would come. Some of these people
8 did this at the same time all this discussion was going
9 on with some of our City agencies trying to bring in
10 business. And bringing in a controversial business at
11 that.

12 We're just -- we ask our City, please, to
13 slow down. We have -- we have announced in our paper,
14 *Pflugerville Pflag* -- and by the way, if it hadn't been
15 for them, I wouldn't have known about it either. I
16 discovered it in August. Just happened to scan the
17 newspaper and saw it. There's a new Walmart possibly
18 coming in in 2007. They're already planning six public
19 areas on the Walmart. They didn't plan one public
20 hearing until we forced their hand and the mayor finally
21 said, "Let's have a public hearing and we'll dedicate
22 the whole counsel meeting to it." And somebody speaking
23 for and against it. There were some 200 people there,
24 most of them outside in the rain, that could not even
25 get in to speak. If they would have had the opportunity

1 to speak, there would have been a whole lot more
2 speaking against.

3 And again, many of the people who spoke for
4 it were not even citizens of Pflugerville. One man
5 said, I moved out of the Pflugerville because of high
6 taxes. Well, you know, I moved to Pflugerville. I knew
7 it was high taxes. That's okay. I'm willing to put up
8 with that so I don't have to put up with the other
9 things.

10 Yeah, I'd like the taxes be less, but I
11 don't want to do it with a racetrack. I'd rather find
12 other -- I'd like to say this is not a positive, proven,
13 productive business. We need to let that new area out
14 there develop economically and business-wise with
15 positive, prudent productive businesses.

16 MS. GIBERSON: Time.

17 MR. NORTHERN: And I'll summarize with this:
18 We have a City employee that e-mailed our five
19 councilman before that "big public hearing" and
20 basically said, "Disenfranchise all the people who are
21 going to get up and oppose this, because they will get
22 up and they'll be very emotional and very passionate.
23 And they will be speaking as though they have a mission
24 from God." He wanted to disenfranchise all of us who
25 have some sort of religious conviction.

1 There's nothing wrong with that. And I
2 would contend there's a large percentage of us in
3 Pflugerville that had that conviction. And to -- for a
4 city employee to tell -- didn't even send it to the
5 mayor, just to the five councilman. And said, "Don't
6 worry about it. Don't get upset. This is gone on" --
7 and he went through this with a town in Oklahoma 20
8 years ago and helped them walk through it. It will be
9 okay, just don't listen to them.

10 And I feel hurt by the fact that my vote
11 will be taken away from me that way. Thank you.

12 CHAIR ROGERS: Thank you. Any questions?

13 Thank you.

14 MR. BROWN: Commissioner, may I say one
15 thing?

16 CHAIR ROGERS: Yes, please.

17 MR. BROWN: Commissioner, Mr. Northern
18 indicated that all people outside the City Council
19 chambers that night didn't get a chance to speak. Each
20 name, as it was called, was announced inside the room.
21 The police chief then went outside -- I believe it was
22 the police chief that went outside where everybody was
23 congregated and announced the name out there as well and
24 gave everybody that was at that meeting a chance to come
25 up to the podium. So even though the room was crowded

1 beyond fire safety code, everyone had a chance to speak
2 that showed up.

3 CHAIR ROGERS: Thank you. Okay.

4 MR. NORTHERN: Let me just say that the
5 raining outside, they wouldn't let them in the building.
6 They might have let them come in when it was time to
7 speak, but it was pouring down rain. The public hearing
8 was not really set up properly and should have had a
9 bigger facility. And I think more people could have
10 spoke.

11 CHAIR ROGERS: Mr. Wilson.

12 MR. WILSON: Thank you, Mr. Chairman. Thank
13 you, Commissioners. One additional point of
14 clarification. It is true that during that public
15 hearing in mid-October that there was lots of press
16 coverage and media coverage. However, all of that press
17 coverage was invited by those of us that oppose this
18 racetrack. We're the ones that went and called every
19 one of those stations. We're the ones that contacted
20 every newspaper. We're the ones that contacted all the
21 radio stations. We're the ones that contacted all the
22 investigative reporters, because we wanted our voice
23 heard. And our voice was not being heard in the
24 mechanism of the *Pflugerville Pflag*. We're the ones
25 that made that notice possible. It wasn't Mr. Brown and

1 his group with Mr. Timmerman, it was the citizens that
2 heard about it that said, "This is important. We want
3 our neighbors to know about it." So I want to clarify
4 that.

5 I want to, also, as we talked about the --
6 as you're looking at this application there, a few
7 things to know. We talked about it over and over. It's
8 really not clear why we would have -- why we would want
9 to put a second track within 4.5 miles of another
10 facility. Today, there is not one single example here
11 of a similar -- in the State of Texas in the
12 metropolitan cities that have tracks, you don't have
13 another single example of two competing tracks within
14 that type of distance.

15 In addition to that, in addition to that,
16 the City of San Antonio -- Mr. Brown is so eager to it,
17 San Antonio, there are probably some opportunities
18 closer to Retama Park that might be interested. Selma
19 has had really a lot of success. And I'm being a little
20 sarcastically there. Let them try it there. It's a
21 bigger metropolitan area. Again, we don't see Manor
22 Downs overwhelmed with the need for a second track.

23 Mr. Brown has stated publicly that in the
24 first year that they would just open with a simulcast.
25 That would stated in Travis County Commissioner's Court.

1 The only problem with this, it seems to violate the
2 intent of the Commission's rule and clearly would seem
3 to violate the intent of Rule Section 321.401.

4 And it also appears that what little
5 research has been able to accomplish, that right now
6 there is \$2.5 million in funding from the Texas
7 Thoroughbred HBPA and 1.25 contribution to this
8 partnership would again pose the question: Is this
9 really two competing entities in fair economic
10 competition or do we have a situation that's being
11 funded by an organization not allowing the competition?

12 There is no -- there is nothing that we see
13 today that shows significant tax revenues that would be
14 driven to the City that will help us solve the tax
15 question which we all have. We're all eager to have our
16 taxes lowered. There are opportunities here. But this
17 opportunity doesn't -- isn't even a quarter of the value
18 that you would find with that land, according to the
19 City manager.

20 City manager said that land is worth
21 somewhere 700,000 and \$1.5 million in annual revenue.
22 The tax -- the racetrack tells us that they will do
23 somewhere between 150 and \$300,000 a year annual
24 revenue. Their application shows closer to 150,000,
25 which tells me I can hold on to that land for five years

1 before I bring something to that particular property.
2 It is not a value to our community. It's not a value to
3 Manor Downs. It's only a value to Mr. Brown and
4 Mr. Timmerman.

5 Thank you.

6 CHAIR ROGERS: Any questions?

7 Thank you.

8 Mr. Straus.

9 MR. STRAUS: Commissioners, my name is
10 Joe Straus, and I'm chairman of the Retama Entertainment
11 Group, the managing entity from Retama Park racetrack
12 and also a small percentage owner in this track. I've
13 got Mr. Pollock here, he's our general manager, to hold
14 up this. I just want to show you this.

15 Before we get started, I just want to
16 acknowledge that my old and able adversary Weston Ware
17 back there, I've going at this for many years with him.
18 I guess, 30 years. And I can remember when I debated
19 him on television. And you have a live audience there.
20 And everybody in the audience was a minister. I felt
21 like a fire plug at a dog show. But he's a very kind
22 man and I respect him.

23 I just want wanted to show you here briefly
24 what happened at Retama Park. When you have a good
25 racetrack facility, what it does for the community. I

1 hear a lot of people out here talking about they're just
2 afraid of what it's going to do with their community.
3 We had exactly the same thing at Retama Park in the
4 little city of Selma. And Dr. Carter brought up this
5 awhile ago. How many of you have been to a racetrack?
6 And I bet you, none of them have or very few of them
7 have.

8 Anyway -- and also, I heard someone say
9 about soccer. Who would want to build a -- have soccer
10 right next to a racetrack? Well, I have to tell you
11 that right here -- here's the racetrack and right down
12 here (indicating) is a major soccer facility that we
13 have upwards of 10,000 people at soccer tournaments
14 right down to the racetrack right now. It's very
15 successful. We get along absolutely perfectly with
16 them. So we have no problems with that.

17 If you look at this, you can see a lot of
18 vacant land around this racetrack. Well, that's what it
19 used to look like when we first opened the racetrack.
20 Today there are 250 homes right here. There are about
21 350 homes being built right here. There are 500 homes
22 being built right here. All next to the racetrack.
23 Lots of a vacant land out here (indicating). Where did
24 they choose to build these homes? Right next to the
25 racetrack. It is an economic generator. Right here --

1 up here where all this vacant land is here is one of the
2 largest, if not the largest, regional shopping centers
3 in the State of Texas. Right there, Forum Shopping
4 Center (indicating). And we had people that lived there
5 before we had the racetrack. We had Retama -- the Selma
6 Park Estates here. We have Olympia Hills up here
7 (indicating). Both were there. And I tell you now that
8 we had lots of opposition at the City Council meeting in
9 Selma when we applied to -- when we went to them and
10 told them we wanted to build a racetrack there.

11 Today, you can't find anybody anywhere
12 around here that that's opposed to that racetrack. They
13 love it. And it's been an economic generator. There's
14 more to come. We have people now interested in this
15 property right here for another big development right
16 next to the racetrack. Here is the largest amphitheater
17 in the State of Texas (indicating). Seats 20,000
18 people. They chose to be right next to the racetrack.
19 And it's -- if it's done right, which it will be done
20 here on this track here in Pflugerville, you will find
21 it to be a tremendous economic generator for that
22 community. I have no doubt about that at all.

23 So I just wanted to tell you that. And
24 also.

25 MS. GIBERSON: Time.

1 MR. WILSON: And also, I also might add that
2 there was a church here right across the fence from this
3 racetrack. Right here there was a church (indicating).
4 They were there before we were there. And they blessed
5 our racetrack. So it's -- we've had very good relations
6 with them as well.

7 So if there's anything that I could -- oh,
8 also I might add that when we built this racetrack, it
9 was served by just a little two-lane county road right
10 here (indicating). And we went to Bexar County and told
11 them that we couldn't do this racetrack unless we had
12 adequate -- an adequate road there. And they came in
13 unanimously and voted to put that road in there. And
14 they're going to get their money back, many times over,
15 with the development that's going on here. Bexar County
16 will get their money back. And it's already with the
17 developments that's already there and it's coming.
18 They're going to get their money back many, many times
19 over.

20 So I can answer any questions that you might
21 have. I talked almost as fast as Ms. Strayhorn.

22 CHAIR ROGERS: Any questions of Mr. Straus?
23 Yes, Commissioner Carter.

24 COMMISSIONER CARTER: Did you-all have a
25 vote on this before you moved into Selma or did you just

1 have a County Commissioner?

2 MR. STRAUS: Absolutely, we had a vote.

3 COMMISSIONER CARTER: A local referendum?

4 MR. STRAUS: The city of Selma -- City
5 Council voted unanimously for it.

6 COMMISSIONER CARTER: Did the citizens --

7 FROM THE FLOOR: The citizens.

8 MR. STRAUS: The citizens, no. Other than
9 they came to the council meetings and voiced their
10 opinions.

11 CHAIR ROGERS: Yeah, that was my question.

12 Any other questions, Mr. Straus? Thank you
13 very much.

14 COMMISSIONER STRAYHORN: Mr. Chairman.

15 Mr. Straus, at the road, when did they take
16 the road?

17 MR. STRAUS: They did that road actually
18 about the time that we got our license, which was about
19 1990 or so. About five years before we built the
20 racetrack, actually.

21 COMMISSIONER STRAYHORN: County --

22 MR. STRAUS: Before we opened the racetrack.
23 But they finished the road. It was almost a dead heat.

24 COMMISSIONER STRAYHORN: No, no, I was
25 asking: When did they make that commitment to do that

1 road, before or after?

2 MR. STRAUS: They did it -- they made the
3 commitment about the time -- about 1992, I guess.

4 COMMISSIONER STRAYHORN: Was that before or
5 after you were --

6 MR. STRAUS: Granted the license?

7 COMMISSIONER STRAYHORN: Yes.

8 MR. STRAUS: No, we had the commitment from
9 them.

10 COMMISSIONER STRAYHORN: Before you were
11 granted --

12 MR. STRAUS: But they hadn't done anything.

13 COMMISSIONER STRAYHORN: But you had the
14 commitment to put the dollars into it.

15 MR. STRAUS: And then we had to put this
16 road in right here and we got the -- some State help on
17 that. And this drainage (indicating).

18 CHAIR ROGERS: Right. I was -- because here
19 you've got -- you do not have the commitment from the
20 County, correct? There is no commitment to put that
21 road, but here you had the commitment before you got --

22 MR. STRAUS: Yeah, we -- it was general
23 knowledge to the County and to everybody else that the
24 racetrack was going to go there.

25 COMMISSIONER STRAYHORN: Yes. But you

1 actually had the commitment -- formal commitment --

2 MR. STRAUS: We had the approval from the
3 City of Selma before we had the approval from the
4 County.

5 COMMISSIONER STRAYHORN: And when -- you got
6 the approval on the County on the road before you -- or
7 after you had already gotten license?

8 MR. STRAUS: No, we had an option on the
9 property and then we had the City Council voted on it.
10 And so we had the approval to put it there.

11 COMMISSIONER STRAYHORN: Right.

12 MR. STRAUS: And then we went to the County
13 and got their participation on this road here
14 (indicating).

15 The main emphasis I wanted to put here is
16 that, when you do one property, which we had no doubt
17 that it could be done properly in Pflugerville, it's
18 going to be a tremendous economic generator. It's not
19 going to bring in the bad element that they talk about.
20 It's going to be -- we have -- you all come out there
21 and some of these folks here ought to come out there on
22 a Friday night when we have our 50 cent Fridays and see
23 the kids out there. We have families, we have face
24 painters, we have pony rides, all of these kinds of
25 things. The kids love it. They have a big time. And

1 it's that kind of atmosphere that you have if you have
2 the proper kind of facility.

3 Travis County today is not served by that
4 kind of facility. And that's the reason why we think
5 it's necessary to put that in the capital city of Texas.
6 We think that Travis County deserves the best.

7 CHAIR ROGERS: Any other questions for
8 Mr. Straus?

9 Thank you.

10 FROM THE FLOOR: Can I respond quickly?

11 CHAIR ROGERS: Only if you have something
12 factually that's different than what they've said. I
13 mean, I'd -- do what? I mean, if you have a factual
14 something that needs to be clarified on that, I'd be
15 glad to hear it. Otherwise, I sort of need to move on.

16 FROM THE FLOOR: Well, he said it's exactly
17 the same situation. And Pflugerville is not exactly
18 like Selma or like Manor. There is a huge difference
19 between the two communities. Pflugerville's already
20 grown and it's -- they were not grown yet. They were
21 looking for a way to grow. We're grown. We just need a
22 revenue.

23 CHAIR ROGERS: Mr. Phillips.

24 MR. PHILLIPS: Commissioners, I'm
25 Howard Phillips, President of Manor Downs.

1 In all due respect to Mr. Straus, I think it
2 needs to be clarified, too, that the City Council of
3 Selma did vote on this, but I can assure you the
4 citizens of Selma were not happy when one year a default
5 of \$56 million of bonds occurred. And I would say that
6 to you at this point, that track was bought for
7 approximately what we have invested in Manor Downs
8 currently. So I don't think it is all as rosy as it
9 appears to be. And I think without going back and
10 revisiting those hard times of what Retama went through
11 and what happened to that track. I think most of us are
12 aware of it. I think the record needs to be clarified
13 in that.

14 CHAIR ROGERS: Thank you, Mr. Phillips.
15 Bruce Wood.

16 And I think we're down to the last two folks
17 to talk. Mr. Wood.

18 MR. WOOD: I'll have to bend over here a
19 little bit so I can get the microphone.

20 If I could, Chairman Rogers, I put 1,000
21 hours into this work trying to get the communications
22 out to people in Pflugerville. I would ask respectfully
23 that I might be given three extra minutes.

24 CHAIR ROGERS: I'll do that.

25 MR. WOOD: Start at my beginning here, so I

1 don't lose track of my notes. We do have some handouts
2 for you. It has a number of exhibits. Those exhibits
3 include letters from Mr. Murphy which show some of the
4 orchestration that took place and the timelines that
5 have been discussed here. We've included -- let me jump
6 to that place, so I don't miss anything. We've got an
7 exhibit, of course, from the County transportation
8 director from Travis County which talks about the
9 weaknesses of the application. And I'm going to talk
10 about that here fairly quickly. We've got minutes from
11 the County Commissioner's Court.

12 You heard a reference -- Mr. Brown -- I
13 can't believe he said it. I mean, it's almost like a
14 Texas-size soap opera here going on. And I guess, I
15 wonder where the *Dallas* writers are, because we've got
16 big money, we've got lots of political pandering going
17 on. We've got lobbyists just in excess here running
18 out. They're getting all set up with the Legislature.
19 So this is getting fun in terms of what Texas politics
20 and democracy is all about, I suppose.

21 But let me -- let me go back to what -- and
22 I'm going to thank the Commissioners for their patience.
23 It's been a long day. I know you're tired. And
24 Comptroller Strayhorn, I want to thank you for your
25 presence here today. I think it's extremely important.

1 We're in what we call a crisis mode in Pflugerville. We
2 think this has caused such a detraction.

3 Let me tell you a little bit about myself.
4 I'm a full-time CPA. Everybody that came here today
5 didn't have a special interest. We took off from your
6 jobs. We came here because we love our community. I
7 would venture to say that most of you-all feel the same
8 way about your communities. I work in an insurance
9 company with over \$100 million worth of assets. So I'm
10 just trying to set up that I've got some credibility
11 here.

12 And I'm going to talk to their application,
13 because their application -- the word "subterfuge" is
14 going to be used throughout my notes. And I want you
15 to -- that's one of the critical aspects of this, when
16 you look at your rulemaking you need to determine before
17 you can come to the conclusion that this project -- this
18 application needs to be approved. If you can't make
19 that determination, then you need to ask yourself -- or
20 you need to ask the applicant to withdraw it and go back
21 and come back with an honest and straightforward
22 application. So when I'm -- when I'm going through
23 here, I'm going to talk about the financial feasibility
24 of this.

25 Two things that we're extremely upset about

1 is the process. It's been talked at length and I'm not
2 going to belittle too much. But we think it's extremely
3 critical. And I'm going to give a closing remark, which
4 I think will wrap that up. But there's been a lot of
5 distortions of the facts of this application. I think
6 the County Commissioner addressed that fairly well, the
7 fact that there wasn't even a corrected application done
8 at the time. And it was full of misstatements and
9 miss -- I don't call it distortions. But in my opinion,
10 it comes real close to that.

11 I guess when I look at the political process
12 that this went through and the lack of democracy that's
13 taken place, I think Mr. Brown could get done he could
14 write a book on how to exclude the public input when he
15 gets done with this.

16 Ms. Strayhorn, I was at the that first
17 August meeting of the City Council. I was one of the
18 only people to speak against that at the time. There
19 was a few small business owners at that first meeting.
20 And I dare to say, that if it didn't -- it wasn't a few
21 good citizens in Pflugerville, we wouldn't even be
22 represented here today. So I want you to know that --
23 that there are many of us here who are very pleased with
24 the kind of input the community process that has taken
25 place here today. I really, really appreciate you

1 listening to us.

2 Something that I think missed earlier in one
3 of the communications and I thought was extremely
4 important, I mentioned the word "subterfuge." A
5 number -- the information submitted to our City Council
6 grossly misled them. The First Baptist Church of
7 Swartz, a letter from their -- a youth volunteer was
8 submitted in support of the information submitted to the
9 City of Pflugerville.

10 We have a letter included in this package, I
11 believe it's Exhibit D, which shows you that the pastor
12 of that church in no way supports Retama Park and was
13 extremely appalled that his church was being used in
14 that manner. So another example of subterfuge.

15 All right. I want to talk about financial
16 stability. Commissioners, you need to take a look at
17 the financial viability of the Austin Jockey Club. I
18 think it was mentioned real well earlier. It's one
19 thing that turn an application that says you have all
20 the financial backing in the world. But it's another
21 thing when you put up your capital contributions and you
22 put them at risk. If any of these gentlemen and ladies
23 have been in business person, you know that it's -- if
24 you go to a bank and you take an application of this
25 nature to the bank, they're going to laugh you right out

1 the door.

2 So unless you're going to get financial
3 commitments, letters of credit, whatever you need to
4 guarantee that banker that you've got the viability to
5 move forward, that's important for you to look at in
6 this public interest process and whether they have the
7 viability to proceed.

8 As a financial professional, we looked and I
9 find it real interesting that if you look at the Austin
10 Jockey Club filing fee. It was paid by a personal check
11 by Mr. Brown. This is the corporate shell, it has no
12 assets, it has not balance sheet, it has nothing that
13 really supports what they want to do. You need to look
14 at that.

15 Here's another example of subterfuge that's
16 permeated this entire engagement with the citizens of
17 Pflugerville and Austin Jockey Club. Mr. Timmerman --
18 the original application did not disclose that he has an
19 option to purchase a 10 percent ownership. We attended
20 a couple of early meetings where that was never
21 discussed and disclosed. Is this a big deal? Maybe not
22 to you all, but it was a big deal to the families of
23 Pflugerville. Again, it's just another example of how
24 we think this process has been misled.

25 We soon found out -- I'm sorry, I'm losing

1 my track. Additionally, if you look at the underlying
2 documents you've previously been provided, if you go
3 back to June of this year, you were asked to approve the
4 ownership change of Austin Jockey Club with
5 approximately 10 percent to Mr. Timmerman. Again, no
6 money changed hands when that occurred, just an option.
7 Again, something on paper just between two people.
8 There was no contract that was executed for the land.

9 Nowhere in this application is this
10 adequately addressed in whether the financial plan could
11 be executed without this additional capital
12 contribution. Guys and ladies, we've looked at what has
13 happened to Retama Park in 1997. It went under. Why
14 should we, the citizens of Pflugerville believe that it
15 has the successful contributions it needs to go forward,
16 as well. Without a serious plan in front of you to sign
17 off on, I don't know that you could come to that
18 conclusion.

19 MS. GIBERSON: Time.

20 MR. WOOD: Let me bring it to a closing
21 comment, if I can find that page.

22 In closing -- and I've got all my notes
23 typed out there. I would ask that you take time to read
24 them, because there was a lot more questions I wasn't
25 able to cover.

1 In closing, I want to leave you with a last
2 impression that the state of affairs in Pflugerville not
3 all well. There's a lot of people hurt, there's a lot
4 of people angry. Mr. McCord -- I'm not going to defame
5 here publicly, but Mr. McCord is a substantial part of
6 the problem. I walked out of the meeting after the
7 first meeting and looked at a couple of people around me
8 and said, "What do we do?" He challenged us. He says,
9 "Bring your A game." That is what he told us.

10 This is our A game today. This is why we're
11 here today and upset. So when somebody like him
12 concludes that bring our A game, that's what we're
13 trying to do to you today.

14 There's multiple reasons to reject this
15 based on this information, incomplete data, flawed
16 process, denied rights to have community input.

17 At the October 26 meet, I asked for a
18 binding -- a nonbinding referendum. Nothing great, but
19 just give the voters a chance to be heard.

20 Also last comment, I'm asking you to reject
21 the application or delay it until there's community
22 support. We don't believe that they have it. And it's
23 not likely. But you have another option and that's to
24 reject it.

25 CHAIR ROGERS: Thank you, Mr. Wood.

1 COMMISSIONER McHUGH: I don't have a
2 question for you, but I do for Ms. Flowerday. There are
3 some very serious allegations made here. Is there any
4 problem with the application?

5 MS. FLOWERDAY: The allegations that I heard
6 and maybe I did not -- maybe I misheard them, but the
7 allegations that I've heard regarding subterfuge related
8 primarily to representations that were made to the local
9 officials. I did not see anything in the application
10 that would prevent you from approving this relocation,
11 if that's your will.

12 There are some things that the staff would
13 recommend that you delay consideration of, primarily the
14 issues involving the exemption requests, anything
15 relating to the operation of the racetrack, such as the
16 quarter horse racing versus thoroughbred racing and the
17 exemption request. We think that -- the staff believes
18 that there's plenty of time to deal with those issues
19 later on, once the construction drawings are submitted
20 for staff approval.

21 And so any approval that you would give, I
22 would suggest that you post -- you specifically exclude
23 approval of those aspects of the application.

24 But I didn't see anything in the application
25 in my review that was in violation of the Racing Act or

1 the Commission's rules.

2 MR. WOODS: If I could add to her statement,
3 briefly. If you read the entire document I gave,
4 there's other examples I've raised. What you're left
5 with is a document, if you look at it in its entirety,
6 it leaves you with more questions than answers.

7 CHAIR ROGERS: Thank you, Mr. Wood.

8 Our last person who has a card in is
9 Mr. Madden.

10 MR. MADDEN: First of all, I would like to
11 say, being the last person, this is definitely the first
12 time that so many people have been glad to hear me
13 speak.

14 Commissioners, my name is Barry Madden. I
15 am currently 38-percent owner in the Austin Jockey Club.
16 I am president of Texas Quarter Horse Association and I
17 am currently serving on the board of directors of the
18 American Quarter Horse Association. And the first thing
19 that I'd like to put to rest is I would like for all the
20 Commissioners to know that I can assure you that the
21 quarter horse industry as well as the minor breeds, will
22 never have a problem with race dates or purse splits at
23 the Austin Jockey Club.

24 Second thing I'd like to bring up,
25 Mr. Chairman, you had said earlier that one of the jobs

1 of this Commission was to maximize revenues. Well, I
2 can tell you, one of the reasons that they put a Lowes
3 on one corner and a Home Depot on the other is because
4 of competition. And competition breeds success. It's a
5 proven fact in many industries having two like
6 businesses in competing markets, sometimes three and
7 four times, will generate three and four times more
8 revenues than one lone unit will. So -- and some of the
9 reasons for that is increased public awareness,
10 increased advertising. I submit to you today that
11 having two race tracks in the same market may not be a
12 bad thing. In fact, it may be a very positive thing.

13 Competition is something that drives our
14 economy. And competition is something that we need in
15 business. And I sure think the -- you know, there's
16 laws that obviously can't allow monopolies, so I don't
17 think the competition issue is anything that can hurt
18 racing at all.

19 The last points I would like to bring up is:
20 The Texas quarter horse industry is in favor of the
21 Austin Jockey Club. The Texas thoroughbred industry is
22 in favor of the Austin Jockey Club. The minor breeds
23 are in favor of the Austin Jockey Club. The HBPA is not
24 only in favor of the Austin Jockey Club, but has
25 approved a loan to be funded out of presimulcast

1 revenues. The City of Pflugerville is in favor of the
2 Austin Jockey Club.

3 The Austin Jockey Club can provide an
4 economic engine for the City of Pflugerville. We can
5 provide jobs and we can provide tax dollars.

6 I submit to the Commission today that the
7 entire industry has spoken and the entire industry wants
8 the Austin Jockey Club in the City of Pflugerville. And
9 I respectfully request that you consider that in your
10 vote in this matter.

11 CHAIR ROGERS: Any questions of Mr. Madden?

12 COMMISSIONER CARTER: I have one.

13 CHAIR ROGERS: Yes, sir.

14 COMMISSIONER CARTER: We haven't heard from
15 TQHA today. Are you speaking for the TQHA.

16 MR. MADDEN: No, sir, I have
17 Mr. Rob Werstler.

18 MR. WERSTLER: I signed a card.

19 MR. MADDEN: Yeah, I think he signed a card
20 earlier. I believe he was overlooked. He was supposed
21 to speak.

22 MR. WERSTLER: It must have gotten lost in
23 the shuffle.

24 CHAIR ROGERS: If you'd like to speak,
25 you're more than welcome to.

1 MR. WERSTLER: Thank you. I did sign a card
2 and handed it in.

3 CHAIR ROGERS: I believe I've got it here.

4 MR. WERSTLER: Good afternoon,
5 Commissioners. Rob Werstler representing the Texas
6 Quarter Horse Association.

7 I'd first like to say it's been a pleasure
8 to have you here today with us, Ms. Strayhorn.

9 I'm here today to support the relocation of
10 the Austin Jockey Club. I won't rehash what's been said
11 today, but I would like to reiterate what Mr. Hooper
12 said earlier about the lack of -- not only the lack of
13 racing opportunities in the Austin market, but the
14 reduction quarter horse racing opportunities.

15 Since 1999, we've lost 135 racing
16 opportunities in the Austin market. Not only is there
17 room for more, I think the industry cries out for it.

18 And I just wanted to be brief and show our
19 support. And will entertain any questions.

20 CHAIR ROGERS: Commissioner Boyd.

21 COMMISSIONER BOYD: What's your feeling,
22 Mr. Werstler, about these two tracks if they go in.
23 What's your feeling about whether two tracks can
24 survive?

25 MR. WERSTLER: Well, you know, I'm no

1 expert. But coming from Dade County, Florida, or
2 growing up there, they had three race tracks within --
3 now, this is in Dade County, Florida, but we had
4 three -- three race tracks in close proximity. Calder
5 Race course is about -- is 10 miles from Gulfstream
6 Park. Gulfstream park and Calder are approximately 15
7 miles from Hialeah Race Park. They ran staggered meets.
8 The Racing Commission, obviously, made them run
9 staggered meets. And today they -- well, Hialeah is no
10 longer in operation, but not because of competition.
11 They've been around since the '20s. But they get along
12 well.

13 So I'm not an expert. I don't know. I
14 think Mr. Madden makes a valid point that, you know,
15 maybe the competition will make them raise the bar.

16 COMMISSIONER BOYD: So the type of racing
17 that's currently going on at Manor Downs, you think that
18 there's enough horses out there to support both those
19 tracks?

20 MR. WERSTLER: There is definitely enough
21 horses to support both tracks, definitely. The Austin
22 market, depending on how many race days that they're
23 allocated. But there are definitely enough horses.
24 Especially, you know, some things weren't mentioned
25 earlier. If we can turn some things around

1 legislatively. Right now we're losing stallions, blood
2 mares, owners, trainers and especially race horses to
3 Louisiana, New Mexico and Oklahoma. If we can turn that
4 around, we'll definitely have enough horses to support
5 both tracks.

6 COMMISSIONER BOYD: And one last question:
7 What's your feeling about the racing at Manor since they
8 approved level?

9 MR. WERSTLER: Well, my concern is the loss
10 of racing opportunity for quarter horses. As
11 Mr. Phillips stated earlier, he keeps coming before this
12 Commission trying to get more purse money for
13 thoroughbreds and that's always a concern for us.

14 Basically, for years, it had been quarter
15 horse racing only. The racing has remained strong. The
16 racing card. The racing product that they put out there
17 remains strong. They still have good solid quarter
18 horses. Have to ask Mr. Phillips about the thoroughbred
19 horse racing.

20 Every -- I hear from horseman quite often
21 that they -- they wish there was -- there were more
22 racing in Manor.

23 COMMISSIONER BOYD: I fibbed a little bit.
24 One last question: If they do what they say they're
25 going to do and they go in partnership with this group

1 and they do something with the customer facilities out
2 there, do you think that that's going to improve?

3 MR. WERSTLER: Well, with all due respect,
4 that's a mighty big if. I know they've been before this
5 Commission and promised this Commission things before
6 that didn't happen. However, if they did, if they did
7 bring in an entity, separate entity and make
8 improvements -- your question was: What happens if --

9 COMMISSIONER BOYD: If all that's a given,
10 is the racing going -- is that going to improve the
11 racing there?

12 MR. WERSTLER: It should. It -- well, it
13 would be difficult to improve the racing there. Will it
14 increase the racing there? That's basically up to the
15 management of Manor Downs.

16 COMMISSIONER BOYD: If it increases it, we
17 hope that it increases it.

18 MR. WERSTLER: Well, truthfully, you know,
19 it's a Class 2 racetrack. I think the product is real
20 good right now. It could be better if they had longer
21 race days. If they had the stable area that would house
22 enough horses for a longer improved meet. It would
23 improve now. They do have quite a bit of purse money.
24 But improving the facility is not just going to help the
25 product. There would have to be a lot -- it would have

1 to be a longer meet, bigger staging area, bigger grand
2 stand.

3 COMMISSIONER BOYD: So your support of this
4 is strictly -- or is mainly for more opportunity?

5 MR. WERSTLER: Yes, ma'am.

6 COMMISSIONER BOYD: Okay. Thank you.

7 CHAIR ROGERS: Ms. Strayhorn, did you have a
8 question?

9 COMMISSIONER STRAYHORN: I think I got an
10 answer. I was asking my expert, too.

11 I was just interested in the conversation
12 from he and Mr. Madden both about competition. And was
13 asking what's the closest we've had. There was one
14 within, what 45 miles, but it went under.

15 CHAIR ROGERS: I think Trinity Meadows was
16 somewhere in Fort Worth. But that's a Class 2 competing
17 with a Class 1.

18 COMMISSIONER STRAYHORN: I understand.
19 Yeah, I was just wondering if there's a new rule of
20 thumb here or a new -- any new --

21 CHAIR ROGERS: Do you need to make a
22 clarifying comment?

23 MR. HISER: Jeff Hiser. I just want to
24 assure the Commission that we are for real. We're
25 coming with this money. We're going to make these

1 improvements and we're committed to improving racing in
2 Central Texas. I mean, that's -- it's more than a
3 given, it's a fact.

4 CHAIR ROGERS: Thank you for your comments.

5 MR. HISER: Jeff Hiser.

6 CHAIR ROGERS: Have we heard from -- have we
7 heard from anybody who has signed up that has not spoken
8 yet? Is there anybody that we have not heard from that
9 would like to speak that's already signed up?

10 Okay. I think with that, I'd like to say,
11 first, thank you for your comments. Frankly, the
12 quality of the testimony on both sides was considerably
13 more informative than I actually thought it would be
14 with this many people signing up. So I want to thank
15 you very much for your comments and your concerns and
16 your passion on both sides of this.

17 Somebody made the comment earlier that, you
18 know, what we've got is an awful lot of nice folks on
19 both sides who have a disagreement. And that maybe is
20 the makings of a good horse race.

21 But I think, with that, it's time to
22 probably clarify what we're here to do.

23 Ms. Flowerday, would you lay out for us
24 exactly what it is that we're supposed to be deciding
25 today. And then I will kind of lay out what I think our

1 options might be beyond that.

2 MS. FLOWERDAY: As I mentioned at the outset
3 in response to a question from Commissioner McHugh, you
4 need to determine whether or not to -- whether or not
5 you want to approve this change in location for Austin
6 Jockey Club. And you must make the following findings:

7 You must make a finding that there was not a
8 competing applicant for the original license and that
9 the association's desire to change the location was not
10 the result of subterfuge in the original licensing
11 proceeding, which was back in 1989. And the big one, of
12 course, is you must find that the conduct of race
13 meetings at the proposed racetrack, the new location,
14 will be in the public interest.

15 CHAIR ROGERS: Okay. Is everybody clear on
16 that? Does anybody have any comment they would like to
17 make along those lines?

18 I think probably we'll hear some discussion
19 from Commissioners. I've got a few comments that I
20 would like to make, but I think we'll wait for some
21 other Commissioners first.

22 Anybody have any comments they'd like to
23 make at this point?

24 I think I would like to take on a couple of
25 issues, then. I would say that, as we're deciding what

1 we need to decide, we're not deciding whether race
2 tracks are good ideas or not. The pari-mutuel
3 proposition was passed by the voters of the State of
4 Texas. We're really not deciding whether pari-mutuel is
5 not a good idea in Travis County or not. The voters of
6 Travis County have decided that it was okay. And we're
7 really not deciding whether pari-mutuel is something
8 that's acceptable in Pflugerville from a legal point of
9 view, other than the public interest, because the
10 residents of Pflugerville also passed that -- passed a
11 vote on that for the time of pari-mutuel.

12 There have been some discussions about crime
13 in the area. And really not a great deal of discussion,
14 but there has been some. And I'd like to say, at least
15 since I've been associated with the Commission, that
16 I've been very impressed with the lack of crime
17 associated with race tracks. It is probably the best
18 regulated business or most regulated business that I've
19 ever been around. Over half the employees or roughly
20 half the employees of the Commission are involved with
21 highway patrol or Texas Department of Public Safety.
22 And crime is really not an issue.

23 One of the problems that I have here is that
24 license are really site specific. And the Austin Jockey
25 Club doesn't really have a site at the moment. And

1 that -- I'll get to where that creates a problem in a
2 minute. But it is -- it really needs to be transferred
3 to a site or eventually there would have been to be a
4 recission involved.

5 At this point, they're asking to have this
6 transferred to a site that hasn't been zoned as
7 applicable for that -- for that purpose. Although there
8 is considerable amount of testimony that that could and
9 would be done, it is not presently zoned.

10 On the site alone. Frankly, I was out there
11 today. And I can't imagine with I-30 coming through
12 there or 130, however that's designated, and this being
13 just a few hundred feet off of that, public interest
14 aside, the site itself for transportation in/out and so
15 forth and being an entertainment zone and in a growing
16 area, I can't imagine that the Austin Jockey Club could
17 probably find a better site for the purpose that they
18 want it for. That public interest, like I say, aside
19 from that for a moment.

20 I do think that it's a given that the Austin
21 market is currently underserved. And I think when we
22 approved the license for the Austin Jockey Club to be
23 moved into Travis County, we did that with an
24 understanding that it was underserved and unless Manor
25 made significant changes in their operation to be able

1 to serve that, that they would be forced with
2 competition into an area that would -- that would
3 improve the product in Austin.

4 I do think that it is one of our
5 requirements to maximize revenue for the State of Texas.
6 That is one of those things that is involved in the
7 public interest.

8 I am troubled by the amount of concern that
9 people have about the length of time involved in this
10 process from the time that the citizens of Pflugerville
11 found out about it until now. I am not as concerned
12 that the City Council of Pflugerville made a decision to
13 support this unanimously. Somebody said they couldn't
14 believe that four people could make a decision for the
15 whole community. But that really is representative
16 government. And four people on the City Council always
17 make decisions that effect every citizen. So that's
18 something between the City Council and the City of
19 Pflugerville.

20 I do recognize that our intent is to see
21 that Austin is better served. And while this site looks
22 like an excellent site, there is about a mile and a half
23 of road construction which has to be addressed. And
24 with the soccer fields out there, it looks like -- and
25 with the interstate being built next to it, it looks

1 like that's something that has to be addressed,
2 regardless of what happens. If it were agricultural
3 land, it looks to me like it already needs to be in the
4 plan to be widened and changed. If it's used for any
5 other purpose, it looks like that's something that
6 always happens or would need to happen. But that really
7 isn't in our jurisdiction. But in order to use this for
8 the track, that issue is going to have to be resolved.
9 And I -- I see this more as maybe a disagreement between
10 the County and the City. And I don't believe that's a
11 controversy that we really need to weighed into.

12 So we do have that particular transportation
13 issue.

14 I think we also have an issue with the speed
15 that this has moved forward since it -- since it became
16 a City issue. Not with the speed it's moved with -- we
17 have an issue on the other end of the speed that it
18 hasn't moved forward in the last four years. So I think
19 that cuts both ways. I do think that those issues are
20 there to be dissolved -- I mean, resolved. And I think
21 those are things that we need to talk about.

22 I also would say that I really believe that
23 we have six options today. And that is, to either
24 approve the site, to decline the site, to rescind the
25 license because there is no site, to give -- to table

1 this issue today to get -- to allow Austin Jockey Club
2 to get the issues resolved with both seeing that the
3 citizens of Pflugerville have the time necessary and the
4 County has the time necessary to really hash this
5 through. And primarily, to get some resolution on
6 the -- on the issue of the road of Pecan Street.

7 In my thinking -- oh, I'm sorry, there's one
8 other -- there's two other possibilities. One of those
9 is to give a finite time, six or nine months, something
10 along those lines, at the Commission's pleasure to find
11 an additional site, if this is not an acceptable site.
12 And then I think, lastly, we have the ability to give a
13 finite time -- I mean, I'd at least propose that we give
14 a time of six or nine months for them to do either one
15 of those last issues. Either to resolve their issues or
16 to find another site before we look at anything like a
17 recission.

18 I do believe that Austin will support and
19 deserves better -- a better facility than what they
20 presently have. In all this discussion, the one other
21 issue that I haven't brought up is the effect of -- or a
22 potential conflict with other license race meetings.
23 And I don't believe there would be any conflict with
24 live racing. I think there could be a substantial
25 conflict with the -- with the simulcast operations at

1 Manor.

2 And frankly, until I saw this gentleman's
3 map in the back today -- and if he's still here, I'd
4 like to be able to look at that again at our -- at our
5 free time. I didn't realize that 130 came next to Manor
6 and next to Pflugerville. I thought that was more of a
7 straight shot. So I'd like to be able to look at that.

8 I think that kind of lays out, at least,
9 where my concerns are and what I think our options are.
10 So from there, I'd really appreciate some discussion.

11 COMMISSIONER McHUGH: I have a question.

12 CHAIR ROGERS: Yes, Ms. McHugh.

13 COMMISSIONER McHUGH: I'd like to talk for a
14 moment, then, about the issue of kind of absence of a
15 zoned site.

16 What does that mean, Ms. Flowerday? Does
17 that mean that we are not able then to approve the
18 track?

19 MS. FLOWERDAY: I don't think that it
20 prohibit -- the fact that the property itself is --

21 COMMISSIONER STRAYHORN: Excuse me. I'm
22 sorry, I couldn't hear the question.

23 COMMISSIONER McHUGH: I'll get closer. The
24 question has to do with the -- what issue that the
25 Chairman raised about the ability to transfer the

1 license if there is no site zoned for a racetrack. And
2 I'd like some clarification on that.

3 COMMISSIONER SOWELL: May I add to the
4 question by asking: Is it correct that this property is
5 not in a municipality, it is located in the County and
6 the County does not have the power to zone the property;
7 is that correct?

8 FROM THE FLOOR: Not subdivided.

9 COMMISSIONER SOWELL: That's not an issue at
10 this point, is it?

11 MS. FLOWERDAY: The fact -- at this time,
12 the property is in the City of Pflugerville's ETJ. It
13 is not within the City limits. The City alone is
14 responsible for doing zoning. And so, therefore, the
15 property is not zoned and it really can't be zoned,
16 because it's not within the City limits.

17 COMMISSIONER SOWELL: Correct.

18 MS. FLOWERDAY: The Racing Act requires race
19 tracks to comply with all applicable zoning laws.
20 Currently, this site does because --

21 COMMISSIONER SOWELL: None are applicable.

22 MS. FLOWERDAY: -- there are no zoning laws
23 that are applicable. If the site is annexed and then
24 zoned in a way that is inconsistent with the use of the
25 site for a racetrack, which is exactly what happened in

1 the City of Austin, then, we would be back here again
2 and they would be required to move the track again or
3 else the staff would take action to take the license
4 away.

5 COMMISSIONER McHUGH: So are we being asked
6 to approve a conditional change in location until the
7 zoning issue is resolved?

8 MS. FLOWERDAY: I don't -- I would not
9 characterize their -- characterize it as there being an
10 outstanding zoning issue. There is no zoning issue at
11 this time. There may be a zoning issue if the
12 annexation actually goes through.

13 COMMISSIONER SOWELL: Further question,
14 Ms. Flowerday. If the application is granted now, I
15 would assume the issue of zoning would become moot,
16 unless it is required that the rest of the process be
17 completed and all permits granted and all licenses
18 granted prior to annexation by the City. To put it
19 another way: If we act now, will the property become a
20 non -- a preexisting nonconforming use under typical
21 zoning ordinances?

22 MS. FLOWERDAY: I could not answer that
23 question. You'd have to direct that to someone with the
24 City. I'm not familiar enough with zoning laws.

25 COMMISSIONER SOWELL: In view of that, I

1 think we have to assume that there is no impediment to
2 our taking action today, based on the question of
3 zoning. Would that be your conclusion?

4 MS. FLOWERDAY: I would agree with that
5 statement.

6 COMMISSIONER SOWELL: Okay. Then,
7 Mr. Chairman, I think we can probably proceed in
8 whatever direction we decide to go.

9 CHAIR ROGERS: Oh, I felt like we could. I
10 may have misstated what I said a moment ago. I was
11 saying that -- that a -- I don't know that there -- if
12 you approve this site, I don't know that in the end the
13 site gets approved, if for some reason it doesn't get
14 zoned. So I don't think it precludes us from doing
15 anything. I think we can do whatever we choose to do
16 today to either accept, reject or do one of those
17 following options.

18 COMMISSIONER MCHUGH: So all legal
19 prerequisites for the vote today have been taken,
20 correct?

21 MS. FLOWERDAY: That's correct.

22 COMMISSIONER MCHUGH: Or exist.

23 MS. FLOWERDAY: Yeah. They exist at this
24 time.

25 COMMISSIONER SOWELL: From a procedural

1 standpoint, do we need to adopt findings with respect to
2 each of the three things that you have mentioned
3 previously before we can authorize anything?

4 MS. FLOWERDAY: Actually, from a procedural
5 standpoint, when you voted originally to move the Austin
6 Jockey Club site from Round Mountain to Travis County,
7 you made those two findings relating to subterfuge
8 and --

9 CHAIR ROGERS: And competing license.

10 MS. FLOWERDAY: -- and the competing
11 license. So I don't think that there needs to to
12 necessarily be an outward statement of those two
13 findings. I can't imagine that those -- I don't see how
14 those findings could be changed.

15 COMMISSIONER SOWELL: What about the public
16 interest?

17 MS. FLOWERDAY: The public interest is a
18 different thing. And I think if you vote to approve it,
19 then you are, in essence making that finding. I think
20 it would be helpful from a -- from a legal standpoint if
21 there was some elaboration through deliberations by the
22 Commissioners about the -- your sense of why the
23 transfer to this new location would be in the public
24 interest. Did that make sense?

25 COMMISSIONER SOWELL: Uh-huh.

1 COMMISSIONER STRAYHORN: Mr. Chairman.

2 CHAIR ROGERS: Yes. Commissioner Boyd.

3 COMMISSIONER STRAYHORN: If I hear what's
4 said here, any motion today is going to be directed at
5 whether it's in the public interest or not in the public
6 interest.

7 MS. FLOWERDAY: That's correct.

8 CHAIR ROGERS: Yes. And in the public
9 interest, to clarify that, I think Ms. Flowerday said
10 that you can use those 11 issues in 6.04 to determine,
11 to some degree, whether it's in the public interest,
12 which include traffic flow and potential conflict with
13 other licensed race meetings and financial stability.

14 Commissioner Boyd, did you have a comment?

15 COMMISSIONER BOYD: No, I didn't yet.

16 CHAIR ROGERS: Oh, not yet.

17 COMMISSIONER BOYD: Not yet.

18 CHAIR ROGERS: I was trying.

19 COMMISSIONER BOYD: Mr. Chairman, I'm
20 inclined to go with your option on tabling the issue to
21 allow Austin Jockey Club and the community to go back
22 and meet so that they can discuss this issue and have a
23 little bit more time to discuss the issue.

24 CHAIR ROGERS: Okay. Is that -- I'm --

25 COMMISSIONER BOYD: In the -- in the respect

1 of public interest --

2 CHAIR ROGERS: Uh-huh.

3 COMMISSIONER BOYD: -- I think that that --
4 that option that you laid out does fall within the
5 public interest part.

6 CHAIR ROGERS: Well, are you asking -- are
7 you asking for their -- I mean, the City commission
8 has -- I'm just clarifying. Okay. The City commission
9 has voted to support. Are we -- so the City commission
10 isn't going to be asked to reconsider that, but they may
11 choose to. But are you -- the biggest issue I have here
12 at the moment is the road. Is that an issue that we
13 need to have clarified before we move forward with this?

14 COMMISSIONER BOYD: I think it is.

15 CHAIR ROGERS: I'm just looking for clarity
16 in what you're actually asking to happen to know when
17 somebody could come back.

18 COMMISSIONER BOYD: Yes. I think there are
19 too many -- I think that issue is a main issue. The
20 road is a main issue in the public eye there in
21 Pflugerville. And I think that -- that slow-down is
22 part of the process that needs to happen. So I'm
23 inclined to take your table of the issue right now.

24 CHAIR ROGERS: Rather than accepting that as
25 a motion at the moment -- I appreciate it.

1 COMMISSIONER BOYD: Discussion.

2 CHAIR ROGERS: For discussion purposes, I
3 think we need to input from everybody in that process.

4 COMMISSIONER SOWELL: Mr. Chairman, I would
5 offer my suggestion that we not delay on that account,
6 that we go ahead and decide the issue, subject to the
7 road problem being worked out between the County and the
8 City or whatever it takes in order to eliminate that
9 problem. And that that be a contingency to whatever
10 action we take.

11 CHAIR ROGERS: Can you do that?

12 MS. FLOWERDAY: I think you can do that. I
13 would suggest that, without some kind of time frame
14 being placed on your action and expectations, we will be
15 in no better situation than we are right now.

16 COMMISSIONER SOWELL: But then it would
17 follow that if we put a time frame on it, it would cure
18 your --

19 MS. FLOWERDAY: That is my concern. You
20 know, we've rocked along here for several years with
21 them not having a site. And frankly, I was one of the
22 driving forces behind pushing them to get another site.
23 I didn't say where. I just said, you need to find a
24 site. And that's my concern about, you know, if we
25 leave it open-ended saying, you know. Pending

1 resolution of this, who knows how long that could take.
2 And that -- and I'm speaking strictly as your chief
3 administrative officer, not really knowing what to do
4 with a licensee that's out there with no site.

5 CHAIR ROGERS: Having a site is part of
6 having a license. I mean, the license is site specific.
7 And right now, we have a license with no site.

8 COMMISSIONER SOWELL: Right.

9 CHAIR ROGERS: Specific or otherwise.

10 COMMISSIONER SOWELL: But we can solve that
11 today, subject to the road problem being solved within a
12 certain period of time.

13 I also, Mr. Chairman, would add that I think
14 we probably should also consider the staff's
15 recommendations about other aspects of the application
16 being delayed until future time because they're the kind
17 of issues that can be dealt with after whatever action
18 is taken -- has been taken; is that right, Ms.
19 Flowerday?

20 MS. FLOWERDAY: That's correct.

21 COMMISSIONER SOWELL: Would you enunciate
22 those for us one more time?

23 MS. FLOWERDAY: The staff's -- the staff
24 would recommend that you postpone any decisions on
25 exemption requests until final construction plans have

1 been submitted for staff approval and, also, that any
2 approval that you give be conditioned on compliance with
3 the Racing Act regarding offering of racing for all
4 breeds.

5 COMMISSIONER McHUGH: Mr. Chairman, I would
6 like to hear from Brian Brown on the timetable and what
7 any delay might do for you or your investors.

8 MR. BROWN: Twenty-three years wouldn't
9 work, would it?

10 CHAIR ROGERS: I don't believe so.

11 MR. BROWN: I think the six to nine-month
12 table, and nine months, preferably, would work well.
13 Because at that point, you know, if we're not anywhere,
14 if we can't even come back to you and say, look, we're
15 30 days away, then we probably need to look somewhere
16 else. So nine months would be our request.

17 CHAIR ROGERS: Okay. I have a question for
18 you along those lines, okay. It has to do -- and I
19 don't think the microphones are still hooked up there.
20 I think I saw somebody unhooking them awhile ago. But I
21 can hear you fine. I don't know if everybody else can.

22 The construction, initially -- we had
23 initially talked about the possibility of simulcast in
24 2005. You move that to simulcast in 2006. I am a
25 little concerned that if you're -- if I-30 -- if I-30 is

1 completed, it looks to me like you've got pretty good
2 access with 1,000 feet of road.

3 MR. BROWN: Right.

4 CHAIR ROGERS: So you're better access than
5 we had here today coming down 222 -- or 2222. But if
6 I-30 isn't completed, and you don't have -- and I don't
7 know if I'm saying it right. I don't know if it's I-30
8 or 130, but if it isn't completed, then you've
9 absolutely miserable access, unless Pecan Street were
10 handled. Can you kind of clarify your thoughts on that
11 timetable?

12 MR. BROWN: Sure. Ideally, what we would
13 do -- and it may be a two-part answer. Part one is
14 simulcast only if we are fortunate enough to have three
15 opening simulcasts like Lone Star did.

16 That road doesn't need anymore cars. But
17 our simulcast traffic, I don't think it would hurt
18 measurable. I mean, you might be able to see it, feel
19 it a little bit, but we're not talking about attendance
20 of 1,000 people getting to the track at 5:00 or 6:00 in
21 the evening.

22 So that's part one. I think we could go for
23 a period of time. And we made the statement publicly,
24 we don't want to even do that until we know there's
25 something worked out with the road. So we know there's

1 a feature for the road. But I think we could simulcast
2 with just one road.

3 Live racing, I think, at a minimum, that
4 road to be widened for the kind of crowds we need to
5 get. We don't think a two-lane road is the best thing
6 for the kind of crowds we hope to get for live racing.
7 But I don't know if 130 -- if the road is provided
8 for -- the widening of the road is provided for, I don't
9 know that 130 would need to be opened that first live
10 racing season. I'd like it to. And that's the best of
11 all worlds. But I think either 130 could open and
12 accommodate simulcasting, maybe live racing or the road
13 could be widened. One or the other has to be done. And
14 any logical opinion for live racing. If I'm answering
15 your question.

16 CHAIR ROGERS: Pretty much, I think.

17 COMMISSIONER SOWELL: Mr. Chairman, I wonder
18 if it might help to hear from Travis County about two
19 things. Number one, what is the schedule, as far as the
20 County knows, for that I-30 project to be completed?
21 And secondly, what -- under what circumstances would the
22 County be willing to proceed with something to widen
23 Pecan Street?

24 COMMISSIONER SONLEITNER: Karen Sonleitner,
25 Travis County Commissioner. Let me start with the first

1 question first. The timetable that we have been given
2 by Lone Star Infrastructure, which is the developer on
3 behalf of the State of Texas for both SH-45 north and
4 for SH-130, is fall of 2007. That is the best number
5 that we have got for you.

6 COMMISSIONER SOWELL: Now, is that the
7 contractor that's already been awarded the contract?

8 COMMISSIONER SONLEITNER: Yes, sir. They
9 are doing a turnkey job on behalf of the State of Texas.
10 In fact, they are still acquiring right-of-way as we
11 speak. I just flew over SH-130 approximately 10 days
12 ago on another matter. And they are making movement
13 along the roadway south of Pflugerville. But they have
14 not reached 290 yet. And there is zero work being done
15 south of 290. And they are still --

16 COMMISSIONER SOWELL: Excuse me. Again, is
17 this 130 or is it part of the interstate and is it I-30?

18 COMMISSIONER SONLEITNER: It is not I-30.

19 COMMISSIONER SOWELL: Okay. It's 130.

20 COMMISSIONER SONLEITNER: It is 130. It is
21 Texas -- it is State Highway 130. Yes, sir.

22 COMMISSIONER SOWELL: Okay. And their
23 schedule is the fall of 2007?

24 COMMISSIONER SONLEITNER: Fall 2007, yes,
25 sir.

1 COMMISSIONER SOWELL: For completion.

2 COMMISSIONER SONLEITNER: Yes, sir. They
3 started at the northern end, north of Georgetown, and
4 are proceeding south. So there is a possibility, there
5 may be some small limited segments that open up sooner
6 than that. But in terms of SH-130, as it's been
7 approved through Williamson and Travis Counties, fall of
8 2007. And we're going with those numbers.

9 In terms of how would Travis County proceed?
10 Travis County would only proceed on this with an
11 authorized bond election. The soonest we will have a
12 bond election on this is November of 2005.

13 Assuming that this would make it through a
14 public process in terms of a candidate project, it would
15 be out there competing not only with other roadways, but
16 with other park projects that are out there and a large
17 prison project that we unfortunately are having to be
18 looking at. It would be competing with a lot of other
19 projects to even make it on the ballot. And then it
20 would it would be subject to the Travis County voters
21 saying yes. If they did say, yes, those bonds would not
22 be sold until the following spring of 2006.

23 On a road of this magnitude, in terms of a
24 six-lane divided roadway, we think it would take two to
25 three years for this roadway to be completed.

1 COMMISSIONER SOWELL: Assuming no racetrack
2 at all, what is Travis County prepared to do for the
3 good people of Pflugerville to solve the problem which
4 clearly already exists, based on the information we
5 heard today. Testimony today was to the effect that
6 that is a heavily-congested roadway and is a real
7 problem for the citizens here without regard to horse
8 racing.

9 COMMISSIONER SONLEITNER: You'd think that
10 the only thing going on out there is the soccer fields
11 and that's the only cause of trouble out there. It is
12 not. You have traffic issues in Pflugerville Monday
13 through Friday when they are zero soccer games going on.
14 And what has not really been talked about a lot is, we
15 could expand that section of the roadway in front of our
16 park and in front of the racetrack to 12 lanes. It will
17 still have to scrunch down to four lanes going through a
18 section of Pflugerville so that by the time it gets into
19 the heart of historic downtown Pflugerville, it's two
20 lanes. It is two lanes on the west side of town. It is
21 two lanes on the east side of town.

22 And I have to clarify something that
23 Mr. Timmerman did say, with all due respect, we've had
24 some good relationships with him, his father. They are
25 a very well-respected family in that area. But Travis

1 County never promised to build that roadway if somebody
2 would simply dedicate the right-of-way. We've had a
3 number of discussions with the Timmerman family, most of
4 them trying to figure out what was their timetable for
5 all of the land that they owned, which is -- this tract
6 site is just one small part of the Timmerman holdings.

7 And when the voters, in 2001, approved the
8 engineering and design on this project, the Timmerman's
9 were kept up to date, because needless to say, we needed
10 to visit with them about where did they need access
11 points. This talking of the north-south extension of
12 Pfenning Lane. We needed to know for their properties
13 where they were going to need breaks in median.

14 When it finally came down to, so where are
15 you all? We could get no commitments in terms of what
16 their plans were. Because, as we've said before, the
17 County never was going to build this roadway simply if
18 somebody dedicated the right-of-way. And here's the
19 easiest way that I can explain this.

20 The first two lanes right now are Travis
21 County. The next two lanes for this regional roadway
22 would be the responsibility of the landowners on either
23 side of that roadway to come forward and dedicate
24 right-of-way for lanes three and four and to rebuild
25 that roadway to handle the traffic for a four-lane

1 roadway.

2 COMMISSIONER SOWELL: It's not just
3 right-of-way, it's construction costs as well?

4 COMMISSIONER SONLEITNER: Yes, sir. The
5 next two lanes, five and six, because, as we've all
6 said, this is a regional arterial that's going to
7 connect 685 to all the way over to SH-130, would
8 logically be upon Travis County and the City of
9 Pflugerville.

10 The best of all scenarios is, you would
11 combine what the private entities need to be doing as
12 their share of this deal, at the same time with what the
13 public entities ought to be doing so you're only ripping
14 up the road at one time. They have not made any
15 commitments. In fact, when we showed them the
16 right-of-way and said, more than -- more of the
17 right-of-way is going to be taken from the southern side
18 of the road as opposed to the northern side, it was
19 because there was a large gas line underneath the
20 roadway that we would have to completely engineer around
21 and have to relocate, unless most of the right-of-way
22 could be taken from the southern site. At that point,
23 they weren't really interested in going beyond that
24 point.

25 You can make deals with the County related

1 to the mix of right-of-way and construction money.
2 Meaning, if you want to dedicate right-of-way for four
3 lanes of traffic and do the construction for those two
4 lanes, you can. But if you want to dedicate for six
5 lanes, we will cut back what your construction costs
6 are. But under no scenarios does the dedication of
7 right-of-way get you a free road. It doesn't today, it
8 doesn't yesterday, and it will not tomorrow.

9 COMMISSIONER SOWELL: One other question.
10 What about -- I think you indicated that at some point,
11 because of what's already -- already built in
12 Pflugerville, that it -- at some point it can't be any
13 wider than two lanes --

14 COMMISSIONER SONLEITNER: That's correct,
15 sir.

16 COMMISSIONER SOWELL: -- going through town.

17 COMMISSIONER SONLEITNER: Yes, sir, that is
18 correct.

19 COMMISSIONER SOWELL: Is there any
20 alternative to that?

21 COMMISSIONER SONLEITNER: There -- the only
22 alternatives would be roadways to the north or to the
23 south. SH-45 would certainly be one of those northern
24 streets. There is an effort by Travis County and the
25 City of Pflugerville for what's been called Wells Branch

1 Parkway, the extension of that. But that is bogged down
2 in terms of folks that were supposed to enter into a
3 public private partnership not stepping up to the plate
4 related to the private end of it.

5 COMMISSIONER BOYD: Are you talking about a
6 loop kind of around?

7 COMMISSIONER SONLEITNER: No, ma'am. It
8 actually would be a road that would extend the east-west
9 roadway.

10 COMMISSIONER BOYD: So you'd get it wider?

11 COMMISSIONER SONLEITNER: It would just be a
12 different road. I mean, what I tell people right now
13 is, don't go through -- I'm sorry. Don't go through
14 Pflugerville. Get off at Howard lane, head east on
15 Howard Lane, which is an upgraded roadway that was done
16 by the City of Austin and Travis County. A two-lane
17 roadway that got upgraded to a divided six-lane roadway
18 because Dell was going in. And that project took two to
19 three years. Took two to three years. We know how long
20 it takes to build these things. But the only other
21 option is other paths.

22 And again, all of the hang-ups are occurring
23 within the City of Pflugerville, which made the choice,
24 and I do not argue with them, that they want two lanes
25 going through their town. And expanding out near the

1 park, expanding near the racetrack will not change the
2 traffic tie-ups one bit, unless they make decisions
3 about taking that four lanes to something else. And
4 certainly the two lanes for about a two-mile stretch
5 through Pflugerville. It won't fit. It will not fit.

6 COMMISSIONER SOWELL: So if you were the
7 City, use one of those two alternate routes that you
8 mentioned --

9 COMMISSIONER SONLEITNER: Yes, sir.

10 COMMISSIONER SOWELL: -- and not go through
11 town at all?

12 COMMISSIONER SONLEITNER: I don't. I -- for
13 the big regional soccer tournament we had there this
14 spring, I made the mistake once of not really thinking
15 through it and went through Pflugerville. And that was
16 the last time I did that. I approach either from the
17 north off 685 or I approach off the south off of
18 Dessau/685. I do not come through Pflugerville.

19 COMMISSIONER SOWELL: Thank you.

20 COMMISSIONER SONLEITNER: I hope that has
21 been helpful.

22 COMMISSIONER SOWELL: Very helpful.

23 Mr. Chairman, I wonder if we might hear from
24 the City now, and let's see if the City has explored all
25 these alternatives. Is a representative of the City

1 still here?

2 CHAIR ROGERS: I think I just saw them
3 leave.

4 MR. TIMMERMAN: I have one comment.

5 CHAIR ROGERS: Yes, Mr. Timmerman.

6 COMMISSIONER SOWELL: Mr. Timmerman might
7 know.

8 MR. TIMMERMAN: Well, in regards to SH-130,
9 it's my understanding that SH-130 is not going to open
10 all at the same time. Their priority segment is from
11 U.S. 290 up to U.S. 79. That's where most of the
12 activity has gone on. Most of it is under construction.
13 I would say a very good part of it is under
14 construction.

15 The frontage lanes on this property, on the
16 SH-130 that goes through our family's property are
17 already being paved. I mean, there's asphalt on the
18 ground as we speak. I anticipate this opening up
19 sooner. And I've heard maybe 2006, at least, maybe a
20 portion of this roadway. So I think that needs some
21 further clarification. But I do think there's a very
22 good chance that it is going to open early.

23 And also, the frontage roads, I'm not sure
24 exactly when those would open up, but they are being
25 constructed and there's asphalt going on as we speak.

1 As for traffic getting through Pflugerville,
2 I-45 (sic) is up here (indicating). And you're going to
3 have a very large interchange coming in. East-west is
4 going to be very, very good in getting to this site from
5 I-45 (sic) coming into the interchange, coming down to
6 this segment right here (indicating).

7 COMMISSIONER SOWELL: Would you then agree
8 with the Commissioner that it would be better to not go
9 through town?

10 MR. TIMMERMAN: Well, this is the way I see
11 traffic to this site coming. If you're from Austin, if
12 you're from Round Rock, if you're from Georgetown, the
13 traffic that's coming from the north is going to get on
14 I-30 and they're going to travel down, take an exit
15 right, here which is right before Pecan, get off and
16 you're there.

17 I think the main traffic that's going to be
18 coming through Pflugerville is traffic from
19 Pflugerville. I think if you're coming from the south,
20 you're going to be coming up SH-130 exiting right here
21 (indicating). You're there.

22 If you're coming from the north, you are
23 exiting Pecan, you're there. If you're coming from the
24 west. If you're over in Cedar Park, you're in Leander,
25 Lake Travis area, Lakeway, you're taking 45 up to an

1 interchange right here (indicating). And a mile later,
2 you're at the site.

3 So the -- I think the -- most of the
4 internal traffic from Pflugerville is going to be coming
5 to the site from Pecan. The rest of the traffic we get
6 away from Austin and the rest of the market, I don't
7 believe, is going to be taking SH-130.

8 CHAIR ROGERS: And this site is a few
9 hundred feet off of 130?

10 MR. TIMMERMAN: That's correct.

11 COMMISSIONER BOYD: And so if those people
12 happen through there once, they probably will not be
13 spending a whole lot of money in the City of
14 Pflugerville, because they're not going to get --
15 they're not going to get to it.

16 MR. TIMMERMAN: Well, not everyone is going
17 to pay the toll, as we know. There are still going to
18 be some people going through Pflugerville. They are
19 toll roads.

20 So exactly, not everyone is going to be
21 using the toll roads. But I would say the vast majority
22 of the traffic is going to be using the toll roads.

23 COMMISSIONER SOWELL: Madam Commissioner, do
24 you have any comments on Mr. Timmerman's explanation?

25 COMMISSIONER SONLEITNER: I think it's

1 important to know that there will not be contiguous
2 frontage roads along SH-130. There will be places where
3 there will be frontage roads. And that was basically to
4 provide access to landowners who will become landlocked.
5 But it's not going to be a situation like if you look on
6 Interstate 35 right now where you have frontage roads on
7 either side and people have very easy choices and very
8 easy access.

9 I think it is important that even though
10 certain small segments of this might be open in pieces,
11 somebody coming from the south, they're going to need
12 much larger pieces for SH-130 to be a viable
13 alternative, because what it would mean is, you would
14 get off at 290 and head very far east before you can
15 then hit that one particular segment. Are you going way
16 out of the way if you do that. And I don't really think
17 that that's viable.

18 There's one other clarification that I need
19 to make sure that you understand so that it's not left
20 hanging out there. Mr. Timmerman made references during
21 his testimony to conversations that might be occurring
22 with the State of Texas relating to Pecan. Well, let me
23 fill you in on what that might be. There is the thought
24 that if you try and get Pecan between 685 and SH-130
25 redesignated as part of the State highway system, that

1 somehow magically there will be State funds. And
2 somebody who has sat on the Capital Area Metropolitan
3 Policy Organization, CAMPO, for the last 10 years, and
4 as Commissioner Rick Williamson says over at the
5 Transportation Commission there is no transportation
6 vary. Not only is the State of Texas having difficult
7 times taking care of what it has already on the State
8 system, they are not looking for other things to put on
9 the State system at their expense.

10 And we actually did some due diligence on
11 this to find out, well, if that was declared a State
12 segment, what about the plans we've already paid for,
13 would those things transfer over? And the news here,
14 folks is not good. The State of Texas has a different
15 set of standards for a State highway than they would for
16 a county six-lane divided arterial. And what you might
17 have is about half a million dollars of good taxpayer
18 dollars that have been spent on preliminary engineering
19 and design funds junked if this becomes a State roadway,
20 because they have different right-of-way requirements.
21 They have different ways of doing roads on their system,
22 as you would suspect.

23 CHAIR ROGERS: Well, I think, Commissioner,
24 I appreciate your input greatly. I -- you know, I don't
25 believe we're going to solve either the State, the

1 County or the City's road problems here today. But I do
2 think that it is a problem. And if that isn't
3 addressed, I'm having trouble figuring out how we
4 approve this site.

5 So I -- personally, I'm leaning more toward
6 what Commissioner Boyd said, which is to not either
7 reject or accept this site, but to -- to put a
8 definitive time frame of something like nine months or
9 six months -- no, I'm not talking about to build. I
10 understand that -- but to present to us a viable
11 transportation plan that says that you can accomplish
12 egress and ingress into this tract, if we were to
13 approve it.

14 COMMISSIONER SONLEITNER: And the only
15 clarification I wanted to give you is the six to nine
16 months will not resolve a commitment by Travis County
17 voters to participate in this project. The earliest we
18 will have a bond election is November of 2005. That is
19 12 months from today, not six to nine months. We will
20 have no answers in terms of a definitive commitment. We
21 would not make this out of our general funds. It would
22 go to the voters. The voters will not be asked any
23 earlier than November of 2005 when we already have an
24 election that is scheduled county wide.

25 Thank you.

1 CHAIR ROGERS: Okay. I mean, there is no
2 magic to six months or nine months. I mean it could be
3 12 just as easily. But this is an issue that has to be
4 resolved at some point, one way or the other.

5 COMMISSIONER CARTER: Could I ask for
6 comment?

7 CHAIR ROGERS: Please.

8 COMMISSIONER CARTER: The man who --
9 Mr. Murphy, I believe, spoke from the downtown business
10 association, is that the correct name? He mentioned
11 that it was their hope that the City, the County and
12 Austin Jockey Club could sit down and come up with a
13 plan that was acceptable to everybody. And if what she
14 says is that plan couldn't come up for 12 months, is
15 there anything wrong with giving them 18 months to deal
16 with that and come up with an acceptable plan?

17 CHAIR ROGERS: That's a long time out.

18 COMMISSIONER CARTER: Too long.

19 CHAIR ROGERS: I don't know it can't be
20 done, but that's a long-time plan. You know, it either
21 will be put before the voters. If it's going to be
22 included as part of the bond issue, it would be -- even
23 before there was a bond issue, we would know then
24 whether you wanted to extend that time or not extend
25 that time based on that. If -- I mean, right now, we're

1 kind of focused on the road, not maybe all the other
2 issues involved. But if it's only the road, I think, if
3 you were going to put it before -- if it were going to
4 be on the bond, you would know within nine months if you
5 were going to have it as part of the bond issue in 12,
6 would you not? I mean, you wouldn't put up a bond issue
7 that you hadn't had a little time to think about.

8 COMMISSIONER SONLEITNER: Very close. We
9 are required under the Voting Rights Act to get our
10 submissions to the Department of Justice. Generally
11 speaking, we try and have that election ballot firmed up
12 no later than around the middle of September, simply
13 because of submissions to DOJ and certainly related to
14 any kind of information to get out to the general
15 public. We don't just slap these things on a bond
16 election.

17 CHAIR ROGERS: No.

18 COMMISSIONER SONLEITNER: Again, I need to
19 make this very clear. There is no guarantee that this
20 project would be on that bond ballot. It would be a
21 candidate for consideration. We're talking about
22 putting in a citizens bond committee together. But I
23 cannot make representations to you today that indeed we
24 would be on that bond election ballot.

25 I will also tell you that in terms of other

1 controversial issues that we have had on the ballot, we
2 have separated them out as a separate proposition. And
3 that has worked out to the advantage on SH-130. We have
4 a firm commitment from the voters saying, yes, we wanted
5 130. That is also a way for people to shoot something
6 down is for it to be separated from the pack and to be
7 voted on separately.

8 CHAIR ROGERS: I guess I'm missing
9 something, because I assumed it was not controversial
10 that Pecan, something had to happen to it, racetrack or
11 not.

12 COMMISSIONER SONLEITNER: I think if folks
13 tie that bond ballot proposition to the racetrack, you
14 are guaranteed that people will make that connection.
15 The same way that the folks from Pflugerville, rightly
16 or wrongly, tied the so-called Pflugerville airport to
17 a -- a vote that they had out there on a totally
18 unrelated topic. People would make the connections.

19 If they see that this is a way to block the
20 County money, they will do it. If they also understand
21 that for the City of Pflugerville, if they have to issue
22 certificates of obligation and if they understand that
23 they can, with a petition ballot, block the issuance of
24 certificates of obligation, they can block the City of
25 Pflugerville, as well, from participating on this

1 project if that is the will of the voters.

2 COMMISSIONER SOWELL: One more thing, just
3 to make sure I understand, Commissioner. It's not just
4 your standard operating procedure that you're talking
5 about in terms of the bond issues. This is controlled
6 by statute -- federal statute in terms of the Voting Act
7 that you mentioned?

8 COMMISSIONER SONLEITNER: In terms of that,
9 that's simply related to what is actually on the ballot.
10 We are required to submit this to the Department of
11 Justice. We are not required to put these kinds of
12 issues before the voters, but we have a healthy history
13 in Travis County of putting -- as Commissioner Strayhorn
14 is smiling. We put these kinds of things to the voters
15 because roads are discretionary. We all like to think
16 that they're mandatory, but in this particular case, it
17 is a discretionary item. And you put those kinds of
18 things before the voters.

19 COMMISSIONER SOWELL: Thank you.

20 CHAIR ROGERS: Mr. Brown, did you want to
21 add something here?

22 MR. BROWN: Yes. We may be getting a little
23 hung up on the County bond situation. And maybe if we
24 come up with an alternative that doesn't involve the
25 County.

1 CHAIR ROGERS: That's what I was suggesting.

2 MR. BROWN: You know, I don't -- I think
3 Commissioner Sonleitner said, we don't have it. It's
4 not some magic hat. But there may be one out there.
5 We'd certainly like the time to be able to find it.

6 CHAIR ROGERS: Yes. Commissioner Strayhorn.

7 COMMISSIONER STRAYHORN: Mr. Chairman, I
8 think we have some other things to address, too. Let me
9 say -- here are the facts: First of all, for the
10 record, I support horse racing in Texas. I want that
11 clear for the record.

12 And as far as facts to this particular site,
13 the road is terrible. I was on it most recently this
14 morning. There has been approval for engineering and
15 design work, but no money to build it. It is -- whether
16 it's less than seven miles or five miles, no question
17 but what it's close proximity to Manor Downs. And those
18 are facts that concern this particular site.

19 Now, let me say that those are my concerns
20 about this particular site, too. Those are my concerns
21 about this particular site.

22 And I, also, have a broader concern. And my
23 broader concern is that it is paternalistic, if you
24 will, to believe that decisionmakers know what's best
25 for a community.

1 I am the Texas Comptroller, but more
2 importantly, I'm a momma and a grandmomma. And I look
3 at this from a maternalist point of view. I care about
4 the people. I care about the families of this
5 community. And it's their home. And I believe that
6 they know what's best for their community and what's in
7 the public interest.

8 FROM THE FLOOR: Amen.

9 COMMISSIONER STRAYHORN: It strikes me that
10 what's happening -- or what could happen here today,
11 could parallel what the Governor is doing in cramming
12 toll roads down the throats of Texans. Never mind that
13 Texans are showing up in droves to testify against the
14 plan.

15 It's ---and it's not that I'm opposed to
16 toll roads, but I'm opposed to tolling roads where the
17 people have not been in the process, involved from the
18 beginning of the process and where the people have
19 already paid for the roads. That's no representation
20 and that's double taxation.

21 When we were in tough financial straits in
22 the last regular session, in April of 2003, rather than
23 cut education and healthcare spending, I was the first
24 out of the gate, so to speak, to recommend video
25 lotteries at race tracks where the people of Texas have

1 already voted for gaming and wrap it in a constitutional
2 amendment that dedicates every penny to lowering
3 homeowners' property taxes and new dollars for higher
4 education and secondary education. You can't separate
5 out any of that. That's all got to be together.

6 In my book, that would put the video lottery
7 terminals at already approved race tracks and not expand
8 gaming.

9 Now, obviously, today, if this Racing
10 Commission were to allow the Jockey Club to locate at
11 this site, I believe we would be cramming this racetrack
12 and potentially VLTs down this community's throat.
13 Without their participation up front, without the
14 necessary infrastructure and without the majority
15 support of the community.

16 Now, if the Jockey Club wants to build this
17 track at this site or any owner wants to build a track
18 at this site, I believe he must first convince the
19 people. You must win their hearts. And then come to
20 this Commission.

21 I spent a lot of my life talking about
22 speaking up and speaking out. I really believe there's
23 no such thing as women's issues or men's issues. I
24 think we're all concerned about schools and families and
25 communities, paychecks and jobs. But I think we have a

1 responsibility to speak up and speak out. And I tell
2 the citizens of this State all across this state that.
3 Speak up and speak out and demand accountability at all
4 levels of government for all public actions taken or not
5 taken.

6 I believe the people here are speaking up
7 and speaking out. And I am listening. Personally, I
8 support initiative and referendum. I think it is the
9 people, not bureaucrats or professional politicians, who
10 know what's best for their community. And I have lived
11 a lot of my life in the public sector and in the private
12 sector. I remember some very specific instances in my
13 mayoring days, one of those was the council voted five
14 to two not to extend Mopac to 183. Happened to have
15 been on the two side. We passed a referendum. We took
16 it to the people. We passed a petition and had a
17 referendum and the people voted to extend Mopac to 183.
18 Threatened it on when they were going to narrow Congress
19 Avenue, but we didn't have to go that far.

20 The -- I say don't hold it, vote it. Put it
21 to the citizens of Pflugerville with a referendum. And
22 until then, until then, I believe that a majority of
23 those -- and until that happens -- and today -- right
24 now, today, I believe that a majority of those who live
25 here are opposed to this. It is not what a majority of

1 the community wants. And I ticked off the reasons
2 already why -- along with that, why it is not in the
3 public interest.

4 And so I -- I really believe that we should
5 not have a motion to approve this today. And if there
6 is one, I will vote no.

7 CHAIR ROGERS: Thank you.
8 Commissioner Adams.

9 COMMISSIONER ADAMS: I would like a
10 clarification. Madam Strayhorn, are you implying that
11 there should be a referendum for a property that exists
12 in the County to -- for a vote to be taken from a
13 city -- from an adjoining city that does not incorporate
14 that county?

15 COMMISSIONER STRAYHORN: We're having it
16 all --

17 COMMISSIONER ADAMS: A county.

18 COMMISSIONER STRAYHORN: Excuse me. To
19 answer your question, we're having it all ways here
20 today. I mean, people -- on the one hand, they said,
21 oh, we're going to annex this. We're going to do this
22 in December. And so let's go and we're definitely going
23 to do the roadways and everything else. On the other
24 hand, it says people of Pflugerville have already voted
25 for, you know, pari-mutuel. Of course, that was, what,

1 1989. This is 15 years later. I think in 15 years
2 situations often change. They change in five years. I
3 think -- I remember 25 years ago, people in Austin in
4 North Austin moved on an average five times in two
5 years.

6 So, you know, I'm saying that this community
7 was not involved from up front on this. I -- I believe
8 that a majority -- I may be proven wrong. Let's have a
9 referendum and see if I am. But I believe the majority
10 of this community is opposed to this site. If you're
11 going to eventually have a site that has the roadway
12 it's going to take, not only the City of Pflugerville
13 being supportive, it's going to take the Travis County
14 Commissioners and dollars for roadways to have the
15 necessarily infrastructure. And I'm the one back in the
16 public interest. I think I've already spoken to some of
17 those things, which is, you know, you don't have any
18 infrastructure. You've got the close proximity. All
19 those things that we make decisions on whether it is or
20 is not in the public interest.

21 But I think along with that, and overriding
22 all of that, I think there is a real sense that in this
23 community, they want to participate in this decision. I
24 don't -- I don't know a better way to know what the
25 community thinks than -- I'm not saying for now and for

1 all time to come there should never be a racetrack here
2 in Pflugerville. But I'm saying now is not the time for
3 it, when there's not the infrastructure. This is not
4 the place for the site and you've got another racetrack
5 within five miles from it.

6 You know, another day, different situation,
7 you know, let the people vote.

8 CHAIR ROGERS: I guess,
9 Commissioner Strayhorn, I don't disagree with your
10 sentiments. I do think we can't require --

11 COMMISSIONER STRAYHORN: Oh, no, no, no, no.

12 CHAIR ROGERS: -- the people of Pflugerville
13 to vote on this. I mean, we don't have the right to
14 initiate that.

15 COMMISSIONER STRAYHORN: Please don't
16 misunderstand me. I was tell -- that is not -- never
17 was I saying we can require any of that. I am saying,
18 if I were -- well, I'm not -- but I would think that the
19 City of Pflugerville and the City Council would want to
20 know how the people really feel about this. I would
21 think the Travis County Commissioners would really want
22 to know how the people feel about this. And certainly
23 we can't -- I'm not saying for us to require that at
24 all.

25 I'm saying that if the Jockey Club wants to

1 locate it here, I would come sit down with these people
2 and try to work with them up front. And if you do --
3 and have a referendum. You know, they paid for a poll.
4 You know, have a referendum. Let's see what's really
5 out there.

6 CHAIR ROGERS: I can't disagree with those
7 sentiments. I think that leads us back, though, that if
8 were the route we were taking, it would be to -- to
9 table this for a finite period of time for the Austin
10 Jockey Club to be able to demonstrate to this Commission
11 that they have their infrastructure problems handled,
12 and that they have community support, however that might
13 happen. I mean, a nonbinding referendum might be
14 something that would happen. It seems to me it would be
15 very difficult for the City of Pflugerville have a
16 referendum on something prior to them annexing it and
17 make it a binding issue. Because I think they want to
18 annex this land regardless for other items.

19 But however they wanted to handle that would
20 be up to them under that scenario or whatever they can
21 get the City to do.

22 COMMISSIONER STRAYHORN: Mr. Chairman, what
23 was the time frame? Wasn't it December on annexation?

24 CHAIR ROGERS: In the next couple of months,
25 yeah. Sometime in December.

1 FROM THE FLOOR: The city manager says
2 December 14.

3 CHAIR ROGERS: And I assume they're making
4 that annexation whether there is a track approved at
5 that location or not.

6 FROM THE FLOOR: The annexation laws, since
7 there are not many homes out there, it was different
8 than if there was a lot of homes. So they could move
9 quick quicker.

10 CHAIR ROGERS: I think in order to get what
11 you're saying on the record, I think you would have to
12 be up here. I appreciate your comment, but -- we're
13 back to any other comments. And then we need to bring
14 this to a vote.

15 I'm sort of hoping to catch a plane some
16 time this afternoon. I bet you there are other people
17 thinking they want out, too. I began to get mean when I
18 get hungry.

19 COMMISSIONER SOWELL: Mr. Chairman, I think
20 we've got a fairly clear course that we need to follow.
21 And that is, Mr. Brown requested, I guess, in one of his
22 later appearances at the podium that they have -- what
23 do you say six to nine months to work on this thing.
24 And it seems to me that that's probably the logical
25 thing to do is to postpone any action until they've had

1 an opportunity to get with the City and the County. And
2 see what they can work out.

3 CHAIR ROGERS: That seems to track to me. I
4 don't think that we're going to be able to -- to -- if
5 we table this, I don't believe we're going to be able to
6 actually tell them how to get that done.

7 COMMISSIONER SOWELL: Right.

8 CHAIR ROGERS: Because we're are working
9 with entities that we have no ability to control.

10 COMMISSIONER SOWELL: I think it's a very
11 complex thing.

12 CHAIR ROGERS: But if they have the ability
13 to demonstrate that there is community support and that
14 becomes the public interest and they have the ability to
15 demonstrate that they have an infrastructure situation
16 that would allow them to get into and out of the
17 facility, those are things that I think would be
18 important to look at when they come back.

19 COMMISSIONER CARTER: May I speak?

20 CHAIR ROGERS: Yes, please.

21 Commissioner Carter.

22 COMMISSIONER CARTER: When you gave us the
23 choices a little while ago, gave us six different
24 choices, one of them included giving them a finite
25 period of time to work out their problems or find

1 another site?

2 CHAIR ROGERS: Yes.

3 COMMISSIONER CARTER: Would that not be more
4 practical than just tabling it?

5 CHAIR ROGERS: I think that would be a
6 better way to put that, yes. And then if they're close,
7 as the County Commissioner said, you know, then they
8 could be subject to maybe getting a little bit more
9 time, if that were the case or it could decide that that
10 site is not an advantageous site.

11 COMMISSIONER RUTHERFORD: How much time does
12 Mr. Brown need, at the outside?

13 MR. BROWN: One year would be nice, you
14 know, nine months if you had to.

15 CHAIR ROGERS: Ten years would be better,
16 wouldn't it?

17 MR. BROWN: No, got other things to do.

18 CHAIR ROGERS: Okay. I would propose that
19 we do this for about nine months. And at that point,
20 we'll know kind of where we're headed.

21 Mr. Flowerday, if we were going to entertain
22 a motion along those lines, could you word -- could you
23 state that what we might do there that would work?

24 MS. FLOWERDAY: Can you give me a couple of
25 minutes?

1 CHAIR ROGERS: Uh-huh.

2 MR. BROWN: Chairman, could I ask one
3 question.

4 CHAIR ROGERS: Guys come back to order.
5 Mr. Brown.

6 MR. BROWN: I don't want to put words in
7 anybody's mouth. Whatever the time period, would that
8 allow us to make progress reports, obviously, come back
9 prior to that time period and readdress this?

10 CHAIR ROGERS: Absolutely. My thought would
11 be -- that you would go keep us informed as to what is
12 happening and how and to continue to -- to give us input
13 and to receive input on what we see out there.

14 The -- the thought is -- as far as I'm
15 concerned is that -- is that we have had a lot of people
16 here today who have expressed displeasure that may
17 represent the City of Pflugerville pretty well. They
18 are very passionate about it.

19 On the other hand, it may not. So that
20 gives you an opportunity to demonstrate to us that there
21 is -- that there is community support, it is in the
22 public interest. And that also gives you an opportunity
23 to determine whether or not you can get in and out of
24 this site and that it is viable for that reason. And if
25 it appears that's not the route and it can't happen,

1 then -- then we would anticipate that we would give you
2 some time to find another site.

3 MR. BROWN: I hope Paula got on that. That
4 sounds great.

5 CHAIR ROGERS: That would be the way I
6 understand.

7 MR. BROWN: Thank you for that
8 clarification.

9 MS. FLOWERDAY: I'm sorry, I was writing.

10 CHAIR ROGERS: Would you identify yourself?

11 MR. NORTHERN: Mike Northern, citizen of
12 Pflugerville. Will we, as the citizens, know when it
13 would be put back on the agenda? This is what's
14 happened to us on the way. I don't know how to keep up
15 with this.

16 CHAIR ROGERS: Absolutely. I would say to
17 you that it is in our -- it is in our best interest as
18 well -- as citizens of the State and as members of this
19 Commission to make sure we have all the public input.
20 We're doing nothing to try to restrict that input. And
21 I think that if -- we will find a way to appropriately
22 identify who needs notification. We will put out a
23 notice.

24 MR. NORTHERN: We have an organized group.
25 You could contact our leader.

1 CHAIR ROGERS: If you will leave that
2 information with the Racing Commission, at some point, I
3 feel sure that that will be the case.

4 Yes, Ms. Flowerday.

5 MS. FLOWERDAY: Mr. Chairman, this is what I
6 came up with. The motion to would be to defer final
7 consideration of the Austin Jockey Club's proposal for
8 nine months, or until August of 2005. At which time,
9 Austin Jockey Club must either, 1, demonstrate
10 satisfactory resolution of infrastructure issues
11 relating to ingress and egress and public support
12 issues; or 2, present an alternative site.

13 COMMISSIONER CARTER: So move.

14 CHAIR ROGERS: We have a motion on the
15 floor. Is there a second to that motion?

16 COMMISSIONER SOWELL: Let me ask a question,
17 if I may, Mr. Chairman.

18 CHAIR ROGERS: Let's -- okay. I was going
19 to see if there was a second before we got --

20 COMMISSIONER SOWELL: No, it isn't a second
21 yet. I wanted to ask Paula.

22 Would it be more in keeping with what you've
23 already told us, instead of saying "public support,"
24 talking about public interest? Because isn't that our
25 criteria, it has to be in the public interest?

1 CHAIR ROGERS: Demonstrate that it's in the
2 public interest rather than public support.

3 COMMISSIONER BOYD: Mr. Chair, may I then
4 ask Ms. Flowerday to restate the motion?

5 CHAIR ROGERS: If I -- I kind of agree with
6 Commissioner Sowell, that they've got to demonstrate
7 that it's in the public interest. And one way to do
8 that is by proving have that they have public support.
9 That may not be the only way.

10 COMMISSIONER STRAYHORN: Do we have a
11 motion?

12 CHAIR ROGERS: Would you then read that back
13 to us and see if we have a motion?

14 We don't have a second on the first motion.
15 So it's presently dying for lack of a second.

16 MS. FLOWERDAY: Okay. The motion would be
17 to defer final consideration of the Austin Jockey Club
18 proposal for nine months. At which time, Austin Jockey
19 Club must either, 1, demonstrate that the location of
20 the track at the new site is in the public interest.
21 Specifically providing information regarding a
22 satisfactory resolution of infrastructure issues
23 regarding ingress and egress; or 2, present an
24 alternative site.

25 COMMISSIONER SOWELL: Yeah, I'll second that

1 motion, if somebody -- Treva, did you --

2 CHAIR ROGERS: Got to have it made, first.

3 COMMISSIONER SOWELL: No. That was Kent,
4 wasn't it?

5 CHAIR ROGERS: Mr. Carter, does that motion
6 satisfy you?

7 COMMISSIONER CARTER: I make that motion.

8 CHAIR ROGERS: Okay.

9 COMMISSIONER SOWELL: Is it now your motion,
10 Kent?

11 CHAIR ROGERS: He has now made that motion.

12 COMMISSIONER SOWELL: Okay. I'll second it.

13 CHAIR ROGERS: Okay. Motion has been made
14 by Commissioner Carter, seconded by Commissioner Sowell.
15 All discussion.

16 Commissioner Strayhorn.

17 COMMISSIONER STRAYHORN: I'm going to vote
18 against this motion. I -- I think there needs to be
19 something definitive today. I don't know what's going
20 to -- anytime two commissioners want to put something on
21 the agenda, it can be put on the agenda, correct?

22 CHAIR ROGERS: That's correct.

23 COMMISSIONER STRAYHORN: Why are we saying
24 eight months, nine months, 10 months, 12 months? We've
25 had testimony that it's going to be '05 before the

1 Travis County Commissioners act. I don't know when the
2 City annexes or when will demonstrate their support for
3 the people or the site is right. We've got -- we're
4 just putting off everything we had to decided today to
5 an arbitrary date of possibly nine months from now.

6 I think we ought to reject this today. And
7 then whenever everybody gets their act together and if
8 they get their act together, let them come back.

9 CHAIR ROGERS: Well --

10 COMMISSIONER STRAYHORN: You know, I'm sure
11 there will be two commissioners who would put it on an
12 agenda. I don't know what the magic is for six months
13 or nine months or 12 months. I think the facts today
14 are that we should reject this site. It's not in the
15 public interest.

16 CHAIR ROGERS: Well, I guess my -- that is
17 one of the discussions. And I appreciate your input
18 there. I think the reason for a definitive time is that
19 I'm not sure that we wouldn't have to begin a rescission
20 action on this -- on this license if we leave it in
21 limbo that they don't have a site, because it is a
22 site-specific -- it is a site-specific license. And if
23 we have a specific site that's being -- that's being
24 followed, then I think it gives us a little more leeway
25 on what to do with it. That's the reason that I believe

1 we need a time.

2 Now, as Mr. Brown said, we can request, from
3 time to time, an update. And if it appears that this is
4 stalled or that it doesn't have public support at that
5 time or that the roadways aren't going to be finished,
6 then I think we can direct them to begin looking for
7 another site. Or they may come to us and say, "We're
8 going to begin looking for another site." But I think
9 it gives us the -- the ability to leave their license
10 intact without having a need to -- to move toward
11 revoking that license. That would just be my comment.

12 COMMISSIONER STRAYHORN: And what is --
13 Commissioner, what's the timeline of a license being
14 intact?

15 MS. FLOWERDAY: Timeline.

16 COMMISSIONER SOWELL: August of next year,
17 right?

18 MS. FLOWERDAY: The motion was for August --

19 COMMISSIONER STRAYHORN: No, no, no. Not
20 for the motion. I'm asking -- you said we have to
21 rescind the license or -- what is the time limit?

22 CHAIR ROGERS: I just think in good faith,
23 if you -- since a license is for a site, if you don't
24 have a site -- you've totally rejected this site and you
25 don't have a site. I'm not sure that -- that you would

1 not be then in a legal position that someone could
2 challenge and say maybe you don't have a license.

3 COMMISSIONER STRAYHORN: That was my
4 question. I really would like to hear an explanation on
5 the legality of them not having a site and having a
6 license. And at what point -- I mean, I'm not the
7 lawyer. Who is --

8 CHAIR ROGERS: Ms. Flowerday is the lawyer.

9 MS. FLOWERDAY: Under the Racing Act, a
10 racetrack license is perpetual, meaning that they don't
11 have to come back for renewal on a periodic basis. It
12 just continues in existence. However, because a
13 racetrack license is site specific, the argument would
14 be that, if they don't have a site, then there are
15 grounds -- they are no longer qualified to hold that
16 license, and therefore that license is subject to
17 revocation proceedings.

18 A revocation proceeding would be one that I,
19 as your chief administrator officer, would initiate in
20 front of the State Office of Administrative Hearings and
21 I would present evidence to demonstrate that they are
22 not qualified to hold a license. And then it would go
23 through that entire --

24 COMMISSIONER STRAYHORN: Because they don't
25 have a site?

1 MS. FLOWERDAY: Because they don't have a --

2 COMMISSIONER STRAYHORN: Have you got
3 precedence on that?

4 MS. FLOWERDAY: I have never initiated
5 revocation proceedings based on a lack of a site.

6 COMMISSIONER STRAYHORN: Have you had those
7 with license without a site?

8 MS. FLOWERDAY: No.

9 CHAIR ROGERS: We have a -- yes.

10 COMMISSIONER BOYD: One more point I'd like
11 to add. I am going to change my stance and vote against
12 it. And the reason I'm going to is because -- when a
13 vote is called on that motion. The reason I'm going to
14 is because when I first came on the board, we had these
15 issues about Manor Downs. And there was a lot of talk
16 about in the State tracks going under. A lot of point
17 was being made about giving serious consideration to the
18 decisions we are making as a Commission.

19 I take it very seriously. And coming into
20 this meeting today, I was concerned about the tracks
21 being -- Austin Jockey Club license being -- or the
22 Pflugerville site being located so close to Manor Downs.
23 Coming into the meeting. And not that it's Manor Downs,
24 not that it's Brian Brown's group, because I respect
25 that group greatly. They're a nice bunch of people.

1 And they do good things at Retama. And I've been to
2 that track. And there's good people that race there.

3 And I'm not real pleased and I'll go on
4 record right now to say, I'm not real pleased with the
5 continued progress at Manor Downs. But we mandated that
6 they spend that kind of money. And I feel a
7 responsibility there. I'm not going to go into this
8 decision for fear that we'll send two tracks under or
9 the one that we mandated spend that money.

10 And the fact that these people have arrived
11 here today to speak their peace, I'm real proud of that.
12 And I appreciate you being here. And I've enjoyed
13 listening to that process take place. And that's kind
14 of icing on the cake. And I'm weighing that heavily as
15 well. I live in a very small town and I -- you know, I
16 hope that I would be listened to as well.

17 But I've been to all of these tracks, all of
18 them. And there are good folks in these racing
19 industries. So that, as a commissioner, is our job.
20 We've got great DPS officers up here. They do a fine
21 job. They've driven me behind the back side of these
22 tracks and I have great confidence in our State of Texas
23 DPS officers. Please, please note that I do. So that's
24 not as much my concern either.

25 But the financial stability of these two

1 tracks so closely located together and the fact that you
2 have come here today and addressed such negative
3 opinions about it, I am weighing those greatly. I will
4 then vote no on this motion.

5 Thank you.

6 CHAIR ROGERS: Any other comments?

7 COMMISSIONER ADAMS: I have a question.

8 CHAIR ROGERS: Question. Question's been
9 called for the motion on the floor and a second. All in
10 favor say aye.

11 No, Ms. Giberson would you call the role,
12 please?

13 MS. GIBERSON: Jesse Adams.

14 COMMISSIONER ADAMS: Aye.

15 MS. GIBERSON: Treva Boyd.

16 COMMISSIONER BOYD: Respectfully, vote no.

17 MS. GIBERSON: Dr. Carter.

18 COMMISSIONER CARTER: Aye.

19 MS. GIBERSON: Colleen McHugh.

20 COMMISSIONER McHUGH: Aye.

21 MS. GIBERSON: Mike Rutherford.

22 COMMISSIONER RUTHERFORD: Aye.

23 MS. GIBERSON: Charles Sowell.

24 COMMISSIONER SOWELL: Aye.

25 MS. GIBERSON: Ms. Strayhorn.

1 COMMISSIONER STRAYHORN: No.

2 MS. GIBERSON: Dyke Rogers.

3 CHAIR ROGERS: Aye.

4 Motion passes.

5 MS. GIBERSON: Two to six. So that -- we
6 have -- and I would very much like to thank you all for
7 coming today, whether you are for or against. This is
8 what democracy is supposed to be about and thank you.

9 We are -- we're not adjourned. So if those
10 of you who are leaving would leave quietly and let us go
11 on with the business, we would appreciate it.

12 Okay. I believe that we need to move to --
13 excuse me, could we have some quiet please? If you'd
14 take your discussions out to the back before you
15 continue, I'd appreciate it.

16 We just have a few more minutes here
17 probably before we need to go into executive session.
18 So I would ask for a report on racetrack inspections.

19 MS. FLOWERDAY: Commissioners.

20 CHAIR ROGERS: Ms. Flowerday.

21 MS. FLOWERDAY: The Commission racetrack
22 report is behind Tab 6 in your notebooks. I do have one
23 update on the pari-mutuel inspection for Valley dated
24 August 16. I believe that inspection was resolved on
25 November 16th. All three of those items have been taken

1 care of.

2 CHAIR ROGERS: Okay. Any questions of
3 Ms. Flowerday?

4 Okay. Thank you. I have sort of misplaced
5 my agenda here, folks. So I think the -- I think the
6 only other thing we had, other than we do need to go
7 into executive session for a moment, is the date of our
8 next meeting. And while you-all are here, I think
9 probably we ought to go ahead and set that before we do
10 the last. I believe that any week in January is the
11 proposed time. And so that's a pretty open issue. So
12 why don't we talk about when somebody can't do it.

13 COMMISSIONER CARTER: I'm out of the country
14 from the 20th on.

15 CHAIR ROGERS: Okay. We have a request to
16 do this prior to the 20th.

17 COMMISSIONER CARTER: Prior to the 20th.

18 CHAIR ROGERS: Prior to the 20th.

19 COMMISSIONER ADAMS: I have no 2005
20 calendar.

21 COMMISSIONER SOWELL: I have no 2005
22 calendar. I'm flying in the dark.

23 CHAIR ROGERS: So am I.

24 COMMISSIONER MCHUGH: Could we have someone
25 call down to check?

1 CHAIR ROGERS: Okay. We will just -- we
2 will call around and set that date very shortly. And we
3 will announce that, then, so that those of you that have
4 an interest would be there.

5 I need the specific language for the
6 executive session, because I don't have an extended
7 agenda with me.

8 And let me ask this before we do this: Is
9 there any other business that needs to come before this
10 Commission today?

11 The rest of you out there look kind of
12 lonely. There aren't very many of you left. Okay.

13 At this point under Government Code
14 551-074(A)(1), the Commission may go into executive
15 session to deliberate personnel matters. For example,
16 the executive secretary position. And under Government
17 Code 551.071, the Commission may the open executive
18 session to confer with an attorney regarding potential
19 litigation, which we don't have. So we will go into
20 executive session presently to discuss the position of
21 executive secretary. It is two minutes after 5:00. And
22 we'll stand in recess to do that.

23 (Executive session.)

24 CHAIR ROGERS: Back in session at 5:17. And
25 if there is no further business, we are adjourned.

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(Adjourned.)

1 STATE OF TEXAS)

2 COUNTY OF TRAVIS)

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

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

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at
15 Austin, Texas, this 13th day of December, 2004.

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