



1 something that we probably should have been doing and  
 2 done for some time, but we've never done it. And for  
 3 your information, Commissioners, what happens here is  
 4 that anybody who wants to get up and speak on any  
 5 subject, this is kind of their opportunity to do that if  
 6 they choose to. We can and will limit their time to  
 7 five minutes. Commissioners can ask any questions that  
 8 they want to ask, but we don't really engage in a  
 9 discussion among ourselves about what that topic is.  
 10 And then the staff can answer any questions,  
 11 administratively, that needs to happen. And then if you  
 12 want to talk about this or act on it in some manner or  
 13 consider action, then any one of you could ask to have  
 14 that put on the agenda for the next meeting. I don't  
 15 know if there will be any public comment on the basis  
 16 that this is something new, but do we have anybody who  
 17 is requesting anything?  
 18 MARK FENNER: We have not requested  
 19 anybody to provide public comment other than on our  
 20 items that are listed in the agenda.  
 21 COMMISSIONER ROGERS: Okay. But this will  
 22 be -- in future meetings this will be an opportunity for  
 23 people to speak on any subject that they want to speak  
 24 on if they choose to.  
 25 III. GENERAL BUSINESS

1 In General Business, discussion,  
 2 consideration and possible action on the following  
 3 matters, we'll begin with budget and finance.  
 4 Ms. Curtsinger, the Chief Financial Officer, will  
 5 present information.  
 6 A. BUDGET AND FINANCE UPDATE  
 7 SHELLY HARRIS-CURTSINGER: Commissioners,  
 8 the information that is in your packet is as of 6-30 of  
 9 '06. At that point we are 83.33 percent through the  
 10 year's fiscal year -- that has lapsed since our -- 83.33  
 11 of the year has lapsed. We have spent 78.57 percent of  
 12 the budget as of that point. As you can -- I'm sure  
 13 you're aware we are running reports very frequently at  
 14 this point. Since we're almost to the end of the fiscal  
 15 year, we do expect to come in under budget or near under  
 16 budget. And within the next three weeks we will be  
 17 making our end-of-the-year acquisitions. And so at your  
 18 September meeting we will, of course, have much more  
 19 information as far as end of the year reports. If you  
 20 have any questions, I'd be happy to answer them.  
 21 CHAIRMAN DYKE ROGERS: Commissioners?  
 22 Thank you. Report and Racetrack  
 23 Inspections, Mr. Neely.  
 24 B. REPORT ON RACETRACK INSPECTIONS  
 25 MR. NEELY: Tom Neely, Director of

1 Enforcement.  
 2 As you can see from your report, that  
 3 there were several inspections that were completed. The  
 4 -- down at the bottom of your report for Gulf, the  
 5 Racing-Judges' issues were satisfied on August the 5th,  
 6 so that would be accurate information. There are  
 7 numerous items still outstanding on the veterinarian  
 8 inspections for Gulf. A lot of these are minor repairs,  
 9 things on the doors, some kennel gates, lights, very  
 10 minor stuff. But they have to schedule these types of  
 11 things when the trainers are available to be in the  
 12 kennels, so that there could be some delays in getting  
 13 that completed.  
 14 On the Sam Houston report, there's an  
 15 issue with the pari-mutuels, and I would defer to  
 16 Ms. Olewin to explain that to you if you have questions  
 17 about it; it's a rather complicated matter.  
 18 CHAIRMAN DYKE ROGERS: Ms. Olewin.  
 19 CAROL OLEWIN: Good morning,  
 20 Commissioners. I'm Carol Olewin, compliance audit for  
 21 the Racing Commission. Do you have any specific  
 22 questions?  
 23 CHAIRMAN DYKE ROGERS: Why don't you  
 24 explain to us what the issue is.  
 25 CAROL OLEWIN: Okay. During the

1 inspection back in June, I was doing -- we have an  
 2 electronic ticket wagering plan, so I was reviewing all  
 3 the pari-mutuel wagering devices. And during my routine  
 4 inspection, we were looking at the pari-mutuel wagering  
 5 devices for a legal electronic wagering program, and  
 6 during the inspection we found that the self-serve  
 7 wagering machines at Sam Houston were canceling wagers.  
 8 And this was a policy that we had put into place several  
 9 years back when we changed our canceling -- cancellation  
 10 rules on our tickets to allow cancellations but under  
 11 certain restrictions. And one of the restrictions was  
 12 not to have them at self-serving machines. They would  
 13 take their ticket if they needed to cancel it and go to  
 14 a manned staff machine with a teller, have the teller  
 15 cancel the wager and reissue.  
 16 This has been a policy; it's been ongoing.  
 17 I found that Sam Houston had deviated from that policy  
 18 about 18 months ago -- 12 months, 18 months ago. And so  
 19 we're just in the process of deciding what to do or how  
 20 to do this. And I think our best recommendation is to  
 21 go back to our pari-mutuel advisory committee, and  
 22 review our rules and see if we need to make any changes.  
 23 CHAIRMAN DYKE ROGERS: Okay.  
 24 Commissioners, do you have any questions  
 25 on this particular issue? Yes, Commissioner Boyd.

1 TREVA BOYD: Why did Sam Houston deviate  
 2 from the normal practice?  
 3 CAROL OLEWIN: That was a management  
 4 decision on their part.  
 5 CHAIRMAN DYKE ROGERS: And as far as you  
 6 know, there hasn't been -- I mean, it is a violation of  
 7 the policy, but there hasn't been an integrity problem  
 8 that's been identified there at this moment, has there?  
 9 CAROL OLEWIN: No. We haven't seen any.  
 10 CHAIRMAN DYKE ROGERS: If the  
 11 Commissioners don't disagree, I'd like to recommend that  
 12 we do reconvene the Pari-mutuel Advisory Committee, that  
 13 we allow the people involved in this particular area to  
 14 determine whether this is something that needs to be  
 15 addressed or not. And I would invite any commissioner  
 16 who would want to sit in on that to do that. If there's  
 17 no objection, that's what we'll do. But if there is a  
 18 Commissioner that would want to sit in on that  
 19 particular meeting? Okay. You can talk with them later  
 20 if you choose to do that.  
 21 Thank you.  
 22 CAROL OLEWIN: Thank you.  
 23  
 24 C. RACE DATE REQUESTS BY GREYHOUND RACING ASSOCIATIONS  
 25 CHAIRMAN DYKE ROGERS: Race date requests

1 under Tab 3, Greyhound Racing Associations. I guess we  
 2 will hear from Mr. Triplett to present his Race date  
 3 request.  
 4 JACQUES TRIPLETT: Good morning,  
 5 Commissioner. I don't think we're percolating here this  
 6 morning. I'm Jacques Triplett, General Manager of the  
 7 Corpus Christi Greyhound Racetrack. We have requested  
 8 basically the same race dates as we had last year, we've  
 9 changed to -- a matinee year around and added some extra  
 10 races on a Sunday afternoon, which seems to be a better  
 11 attended performance. But, overall, we're looking to do  
 12 415 performances, 362 days a year, 5,335 races. We're  
 13 not terribly bright, but we're still pushing and still  
 14 doing it.  
 15 When I came into this business 34 years  
 16 ago, there were 55 greyhound tracks in 19 states.  
 17 There's now 42 racetracks in 15 states. There's a  
 18 message there somewhere, but we haven't gotten it yet.  
 19 So we're trying to run one more year with your  
 20 permission. We've also requested to add one more  
 21 simulcast day. We did not simulcast on Monday last  
 22 year. We only did six days. In previous years we had  
 23 done seven days. Patrons who have come to that have  
 24 asked that we open up Monday again. We have requested  
 25 that as well. If you have any questions at all, I'll be

1 pleased to try to answer them.  
 2 CHAIRMAN DYKE ROGERS: Commissioners.  
 3 MIKE RUTHERFORD: Do they have any states  
 4 where you have less racing, dog racing, where you have  
 5 seasons, you know. It seems to me it's saturated  
 6 running that much. If you -- the Texans, the Houston  
 7 Texans play football all year long, nobody will go out  
 8 there.  
 9 JACQUES TRIPLETT: Right.  
 10 MIKE RUTHERFORD: So I just wondered if  
 11 you all have ever tried -- the industry has never tried  
 12 the seasons.  
 13 JACQUES TRIPLETT: We have not tried it in  
 14 Texas for 20 years. In Florida we ran seasons. And, of  
 15 course, we had 20 tracks in the state. And that worked  
 16 very, very well. To be very honest with you, Florida  
 17 discovered that we produced about \$78 million worth of  
 18 the taxes running five months out of the year, so, hey,  
 19 if we make them run 12 months out of the year, it would  
 20 be a lot more. And that's how it came to start running  
 21 year around, which just literally forced the big tracks  
 22 to do better and the smaller tracks to be a bit weaker.  
 23 The only value that we have in our location is, we're  
 24 140 miles from God and everybody; there's just nothing  
 25 else down there that we're in competition with as far as

1 pari-mutuel wagering goes. We do have a pleasure ship,  
 2 one of those neat wonderful things nine miles off shore,  
 3 don't have to pay any income tax, and don't have to take  
 4 anything out of what people win. That takes about five,  
 5 10 percent off the top. And other than that, the  
 6 lottery, we're kind of down there by ourselves. As you  
 7 probably know, Commissioner Rutherford, we don't really  
 8 have enough population in Corpus that a racetrack should  
 9 have ever been put there, but that's a very long story  
 10 as to why it is. I won't burden you with it. But we  
 11 hung on for 16 years, and we'd like to try it for 17  
 12 years.  
 13 MICHAEL RUTHERFORD: Well, that area is  
 14 certainly growing.  
 15 JACQUES TRIPLETT: Yes, sir.  
 16 MICHAEL RUTHERFORD: I knew you had a lot  
 17 of experience. And I'd just like to, you know -- you've  
 18 been in the business 30 areas, and I'd like to hear why  
 19 they don't have seasons. I've always wondered why it  
 20 saturated that much.  
 21 JACQUES TRIPLETT: Well, one of the things  
 22 that always looms in the minds of the owners that we  
 23 have is that every bill that came out of the legislature  
 24 in the last couple of years, of course, as we all know,  
 25 none of them never made it to fruition, but everyone

1 that came out did have the stipulation in there that  
 2 you'd only be able to have a gaming machine if you were  
 3 running live. So everyone we were running live a lot,  
 4 all the time, because we wanted them all the time. I  
 5 think that's part of their thinking. And to be very  
 6 honest, I think the debt service enters into that as  
 7 well. At one time we had 350 employees, we now have  
 8 132 running seasonal, and we would be down to about 25  
 9 year around and jump up just during that live point. So  
 10 we are an added value to the community.

11 SONNY SOWELL: Mr. Triplett, what is your  
 12 average crowd?

13 JACQUES TRIPLETT: On the weekends about  
 14 500, weeknights 200, 300, folks. And on our simulcast  
 15 days only, it's down to 50, 75 people.

16 MR. SOWELL: What is your trend, what you  
 17 handle?

18 JACQUES TRIPLETT: We are holding -- we're  
 19 actually, by the grace of God, seven policemen, we're  
 20 actually up a little bit this year in handle. We're  
 21 down about five percent on attendance. But our handle  
 22 is holding well. It's basically those that are coming  
 23 and learning more about the game, the per capita is up  
 24 to \$144 per person. So those that are coming are -- the  
 25 per capita has gone up, so the people in attendance are

1 betting a bit more than they ever have before. I think  
 2 the per capita last year was 135, this year it's 144.

3 MR. SOWELL: You might say betters are  
 4 getting better.

5 JACQUES TRIPLETT: The betters are getting  
 6 better, yes, sir. I don't want to take up a lot of your  
 7 time, but in Florida when the lottery came along, we  
 8 dropped about 20 percent of every pari-mutuel track in  
 9 the state, the five horses, the Jai Alai's, and the 20  
 10 tracks. But within about a year that all came back.  
 11 And the reason it came back is because we had been doing  
 12 wagering in Florida for 50 years, and we built the base.

13 In Texas, we had been doing business just  
 14 about nine months when the lottery came along, and we  
 15 hadn't really built that folly yet. That really kicked  
 16 us. We dropped about 40 percent of which not a whole  
 17 lot has ever come back.

18 CHAIRMAN DYKE ROGERS: Any other questions  
 19 or comments, Commissioners? Ms. Boyd.

20 TREVA BOYD: I'm assuming that later in  
 21 this -- under the same tab, that we might have an  
 22 opportunity to talk about -- in our conference calls; is  
 23 that correct?

24 JACQUES TRIPLETT: Yes, ma'am, I sincerely  
 25 hope so. I've -- one of the things that you told me

1 when we were speaking on a conference call was that you  
 2 wanted me to stay in contact with our kennels that  
 3 are booked. So I put out a form that said if nothing  
 4 happens, if we get no gaming, no tax relief, we don't  
 5 get to let them vote for governor at 18, then they can  
 6 buy lottery tickets at 18; but you have to be 21 to buy  
 7 a pari-mutuel ticket, if none of that changes, if we  
 8 have the same thing we had this year, do you want to be  
 9 booked again in 2007? And I have signed papers from  
 10 every one of the 12 of the 13 kennels down there that I  
 11 brought for you, Ms. Boyd.

12 TREVA BOYD: If I may, may I make some  
 13 comments about a conference call set up by staff earlier  
 14 this week concerning Corpus and Valley and going to  
 15 maybe an alternate situation involving circuits, would  
 16 that be okay?

17 CHAIRMAN DYKE ROGERS: Sure.

18 TREVA BOYD: I'd like to thank our staff.  
 19 And I think the commissioners have this in their packet.  
 20 But staff put together an excellent tool which is very  
 21 telling about how each greyhound track is doing. And I  
 22 believe that you've gotten that in your packets  
 23 previously; is that correct?

24 CHAIRMAN DYKE ROGERS: Yes, everybody has  
 25 that.

1 TREVA BOYD: On this conference call were  
 2 Char la Ann and Sammy and John and Mr. Triplett and  
 3 owners in the Florida area; isn't that correct?

4 JACQUES TRIPLETT: Yes, ma'am. COO and  
 5 one of the owners, yes, ma'am.

6 TREVA BOYD: We were there to discuss and  
 7 not pick on Corpus by any means, but just to discuss  
 8 Corpus issues because they're the most impacted track, I  
 9 think.

10 Anyway, staff put together these great bar  
 11 graphs which were real easy to understand and helpful in  
 12 approaching some of the difficult issues facing our  
 13 greyhound industry. No one's really ever looked at the  
 14 numbers in this format before, and what a helpful tool  
 15 it was to our track management, for our staff, and for  
 16 commissioners as well. There's no question it took a  
 17 lot of work to get it done, but it's a great working  
 18 tool now that we've got it identified, I think.

19 With the numbers we're able to understand  
 20 how tracks are performing and we can also determine how  
 21 loss of revenue impacts our agency business as well as  
 22 the tracks. We had the numbers but just not in this  
 23 analytical form before. And I was glad to be included.  
 24 One reason is because I can learn even more about the  
 25 industry and the challenge it faces. I also appreciate

1 the patience with which Mr. Triplett and our staff  
 2 offered me because I did ask some uninformed questions.  
 3 With the conference call we were able to  
 4 debate alternative schedules, and what the consequences  
 5 would be if say we went to a racing circuit between  
 6 Corpus and Valley. With a circuit schedule, Corpus  
 7 would run a portion of the year while Valley would run  
 8 another portion of the year. Staff took two uses with  
 9 these graphs. They used the requested schedule and then  
 10 they used a circuit example. Comparing these Corpus  
 11 numbers, if we were running a circuit, the alternative  
 12 schedule reduced their total earned projected purse by  
 13 about 20 to 25 percent. However, it increased the  
 14 average gross greyhound purse per race, the average  
 15 gross greyhound purse per performance, and increased the  
 16 average point value. And this point value was one of  
 17 the topics of our group -- working group meetings that  
 18 we discussed.  
 19 When you look at the impact on Valley, it  
 20 increased the total earning projected purse by only five  
 21 percent. And, again, I think you'll be able to identify  
 22 all of this in those packets that the staff provided for  
 23 you. During the discussion, however, Mr. Triplett  
 24 offered to us that Corpus didn't want to lose any more  
 25 race dates by going to that circuit schedule.

1 And, again, they would run a portion -- one portion of  
 2 the year while Valley ran another. So they would end up  
 3 losing some races. But we were able to raise some  
 4 income by going to the circuit schedule.  
 5 It's very clear that Mr. Triplett and  
 6 management at Valley and Gulf are very committed to  
 7 their operation, that came across very well in that  
 8 conference call. When he was asked, he informed us that  
 9 he's encouraged by the fact that he's got 13 kennels  
 10 booked, and there are about 40 greyhounds per kennel.  
 11 JACQUES TRIPLETT: Actually, yes, ma'am,  
 12 70 in the kennel.  
 13 TREVA BOYD: This doesn't mean, however,  
 14 that there won't be problems arising down the road  
 15 later, possibly with kennel cost or financial difficulty  
 16 with the kennels -- kennel owners, and that would  
 17 possibly initiate him coming back to us and requesting a  
 18 change in the race schedule as a result.  
 19 We discussed also staying in close contact  
 20 with those kennels so that we would get information on a  
 21 continuing basis and their assessment of how things are  
 22 going with the kennels so that we, the Agency, could  
 23 have as much notice as possible when problems are going  
 24 to arise. And we would be able to react quicker and  
 25 more appropriately as a result.

1 The bottom line, though, is: When handles  
 2 fall, for whatever the reason, so does revenue. We  
 3 included the discussion about impact revenue shortfall  
 4 that has on our agency, staffing, and how it affects our  
 5 budget. When we have a shortfall, we have to consider  
 6 raising fees. While this is easily said, it's not easy  
 7 for me to consider. Because if there are kennel owners  
 8 out there already suffering financially, this could put  
 9 them out of business altogether. So it's imperative  
 10 that we continue dialog, in my opinion, concerning how  
 11 we address changing the way we've been thinking to  
 12 something more innovative for our current environment.  
 13 When we drop race dates, we have a decline in handle.  
 14 It affects the business. We then have to consider fee  
 15 hikes, which shouldn't be waived. When race dates are  
 16 dropped, the Agency still incurs expenses.  
 17 Staff reminded us that the Agency has to  
 18 develop their budget at least two years out. The budget  
 19 process is long and tedious and has to address  
 20 everyone's needs in our operation. It cannot be  
 21 changed on the spur of the moment. And my concerns, the  
 22 greyhound tracks are in precarious situations with  
 23 unregulated wagering going on, patrons gambling across  
 24 our borders, limited access to the product -- patrons  
 25 have to go to our tracks to bet, just how long can our

1 tracks withstand these kinds of challenges? And,  
 2 finally, my thought is leaning towards the Agency  
 3 identifying a cost per day for doing business. And when  
 4 race dates are cancelled, I think that we should assess  
 5 the fee amount to the entities making the request.  
 6 Thank you.  
 7 It was a productive meeting. Although we  
 8 didn't have the luxury of looking one another in the  
 9 eye, it was a very positive discussion, I think, and we  
 10 got our thoughts out on the table about the circuit  
 11 racing and the positive impact it would have. But,  
 12 again, I think that Mr. Triplett is requesting a similar  
 13 schedule.  
 14 JACQUES TRIPLETT: Yes, ma'am, very  
 15 similar to the last 16 years that we have run. And we  
 16 have to look at a brief history of wagering in the state  
 17 of Texas. We lost two horse tracks, Bandera Downs, and  
 18 Trinity Meadows. They went flat out. We lost one dog  
 19 track for five years because Ladbroke folks just gave up  
 20 on it. Most of the horse tracks have reformulated from  
 21 near or close to bankruptcy, and they had to bring in --  
 22 I mean, pari-mutuel wagering has not turned out to be  
 23 the panacea that we all thought Texas might be. But as  
 24 small as we are and as tough as it is, for 16 years  
 25 we've been down there struggling along, and we would

1 like to do at least one more.  
 2 CHAIRMAN DYKE ROGERS: And, Mr. Triplett,  
 3 of course, you know that by statute you can request  
 4 whatever you'd like, and you're entitled to race every  
 5 day if you choose to. So your request, we appreciate.  
 6 Thank you for your request.  
 7 JACQUES TRIPLETT: Thank you, sir. I  
 8 appreciate it.  
 9 CHAIRMAN DYKE ROGERS: Ms. Briggs.  
 10 SALLY BRIGGS: Good morning. Sally  
 11 Briggs, General Manager Gulf Greyhound. We also are  
 12 requesting the same dates that we have run since 1992.  
 13 Our schedule this year has not changed. We're still  
 14 running the same amount of performances; we're  
 15 requesting the same amount of performances for next year  
 16 that we're running this year. The only thing that would  
 17 change would be when the holidays fall, and we've tried  
 18 to manage that where we will be able to have some races  
 19 on -- some performances on those days.  
 20 CHAIRMAN DYKE ROGERS: Any questions?  
 21 Thank you. Mr. Vitek.  
 22 MIKE VITEK: Good morning. Mike Vitek,  
 23 General Manager of Valley Race Park. I'd like to echo  
 24 the commissioners' comments, and thank the working crew  
 25 and staff for all of their work. Certainly an

1 interesting process over the last few months putting the  
 2 information on greyhound tracks together.  
 3 We share the concerns that came out of  
 4 that group discussion and those of the Texas Greyhound  
 5 Association regarding possible shortages of Texas bred  
 6 greyhounds. It's an issue we've struggled with and,  
 7 clearly, we'll continue to struggle with for the next  
 8 couple of years. With that said, our date schedule --  
 9 our date request is similar to our or 2005/2006 meet,  
 10 which we just ended. It starts with a four-day-a-week  
 11 performance schedule. And after Christmas we added a  
 12 fifth day, a Wednesday performance. And we did that  
 13 last year to make sure that our active lists were  
 14 capable of supporting a five-day racing schedule. We  
 15 sure prefer to add performances than take them away  
 16 during the course that they're in. That works pretty  
 17 well for us. We're up in on-track and off-track, ending  
 18 the last year over the prior period. And we'd like to  
 19 request that same schedule this year. I do want to ask  
 20 the Commission to modify our day request by deleting one  
 21 day, which was Wednesday, November 28th, 2007. It's a  
 22 matinee performance, it was placed on the schedule in  
 23 error, and I apologize for the oversight that we didn't  
 24 catch earlier. I did send a letter to Charla Ann, but  
 25 it was quite late. So we would just ask the Commission

1 for support with our date request with that one  
 2 modification deleting that Wednesday, November 28th  
 3 performance.  
 4 CHAIRMAN DYKE ROGERS: November 28th?  
 5 MIKE VITEK: Yes, sir.  
 6 CHAIRMAN DYKE ROGERS: Any questions?  
 7 MICHAEL RUTHERFORD: How far is it from  
 8 Corpus Christi to the Valley track?  
 9 MIKE VITEK: It's about two and a half,  
 10 three hours.  
 11 AUDIENCE: 143 miles.  
 12 MIKE VITEK: I would stipulate to 143  
 13 miles.  
 14 CHAIRMAN DYKE ROGERS: How long it takes  
 15 depends on how active the DPS is.  
 16 MIKE VITEK: I may be making that drive  
 17 quite often seeing that I tried to fly here this  
 18 morning, and that was not a good plan.  
 19 CHAIRMAN DYKE ROGERS: Any other  
 20 questions?  
 21 Thank you. Sorry for butchering your name  
 22 there. Ms. Whiteley.  
 23 DIANE WHITELEY: Good morning,  
 24 Commissioners. Diane Whiteley, Executive Director of  
 25 Texas Greyhound Association. And these are just a few

1 comments from our perspective as representing owners,  
 2 breeders and kennels.  
 3 We really do appreciate all of the charts  
 4 and the graphs and the number crunching. I know how  
 5 much time that takes for the Commission staff to do  
 6 that. It was very helpful and very informative. We're  
 7 trying really hard to look in the future to maintain the  
 8 profitability, or at least increase the profitability of  
 9 greyhounds, the entity, and the greyhounds in Texas as  
 10 well as nationally. We are in a global organization now  
 11 between all the different racetracks, our Greyhound  
 12 travel between all the different states on a regular  
 13 basis. So what happens in Texas does affect the rest of  
 14 the nation; what happens in the nation, certainly  
 15 affects Texas.  
 16 We very much respect management decisions  
 17 when they submit the proposed race dates. They are the  
 18 ones that are down there, they know what their crowds  
 19 are, they know what their staff levels are, they know  
 20 what their profitability standards have to be. So we  
 21 very much respect when they propose their dates, and we  
 22 have no objection to the dates that they have proposed  
 23 for 2007. 2007-2008. And Commissioner Boyd mentioned  
 24 this earlier, I think what we will need is a whole lot  
 25 of cooperation between everyone.

1 When I looked at our breeding numbers of  
2 greyhounds for Texas, Texas bred greyhounds, we had a  
3 precipitous drop between 2004 and 2005. In 2005, we  
4 dropped, I think it was 45 percent in the breeding of  
5 Texas greyhound puppies.

6 Now, this is due to a couple of things. One, of  
7 course, is profitability. The other one is that we had  
8 a -- that was the first major nationwide outbreak of  
9 kennel cough. And that certainly affected the number of  
10 breeds going into the breeding situation, it affected a  
11 lot of people's choices to stay in the business. People  
12 that were marginal, that was kind of the tipping point  
13 to get out. So 2006 we are projecting to be fairly  
14 consistent with 2005. So we are not experiencing any  
15 growth, but we're not losing any ground.

16 We have to look at a two-year out, though,  
17 because 2005 puppies, typically it takes two years  
18 before they hit the track. So 2005 puppies will be  
19 hitting the track in 2007. We'll be okay on that. 2006  
20 we're down again. So 2008 will be a concern if we don't  
21 have enough greyhounds to run the proposed dates.

22 So I look forward to working with the tracks,  
23 with the Commission, with our owners and breeders to  
24 make sure we have the inventory available to run the  
25 dates proposed a year from now, not in 2007, but in

1 2008. Nationally the breeds are down as well. They're  
2 down 15 percent last year, they're running 11 percent  
3 down this year. Both Corpus's programs, which I watch a  
4 lot of, Gulf's, the Valley, Corpus runs around 70  
5 percent Texas bred, which is great. I love to see those  
6 Texas emblems on those programs. They've done just an  
7 outstanding job of keeping the Texas bred there. But  
8 that's going to affect them significantly, but it will  
9 affect Gulf too because there is a requirement at the  
10 end of regulation that they have to keep a certain  
11 number of Texas bred in the kennels. So if those Texas  
12 bred are not available, it becomes a real issue with  
13 rule changes. Valley, another situation, they tend to  
14 have to draw from out-of-state kennels. They have  
15 difficulty meeting their agendas in their kennels. So  
16 we do have some real challenges.

17 And I hope to, in 2007, really start monitoring  
18 these numbers even if it's on a monthly basis to make  
19 sure we're okay in 2008. If we get no legislative  
20 relief in 2007, whether it's alternative locations,  
21 whether off-track sites or VLTs, if we get no  
22 legislative relief in 2007, I look for the greyhound  
23 industry in 2006, their breeding to drop significantly  
24 starting next June after the Session's over. So it's  
25 something that we do have to be on top of, and I believe

1 also on a monthly basis of what our inventory will be.

2 Any questions?

3 CHAIRMAN DYKE ROGERS: Thank you.

4 Mr. Ferrara, would you like to make a  
5 recommendation to the Commission?

6 MR. FERRARA: I'd like to recommend  
7 approving Gulf Greyhound as proposed.

8 CHAIRMAN DYKE ROGERS: Okay. Do we need  
9 to handle these individually, or do you want to make  
10 your recommendation all the way through, and then we'll  
11 look at it?

12 MR. FERRARA: I'd like individually  
13 because I just want to make sure on Corpus, his original  
14 request, he had racing on Christmas Day.  
15 And I brought up to Jacques, the last year, he did the  
16 same thing, came back and asked to drop Christmas Day.  
17 So you'll see in the packet there's a letter amending  
18 that, so I'll make sure that we pass the one that was no  
19 racing on Christmas Day.

20 CHAIRMAN DYKE ROGERS: Okay.

21 MR. FERRARA: As far as Valley, I recommend  
22 as requested in allowing them to drop the matinee on  
23 November 28th because you can tell by his schedule that  
24 he wants to start with the matinees on Wednesday after  
25 Christmas. So I recommend to you to allow.

1 Him to drop that racing day.

2 CHAIRMAN DYKE ROGERS: Okay. Prior to  
3 hearing a motion on this, Commissioner Sturns, do you  
4 have anything you want to add to these comments since  
5 you were on this working group?

6 LOUIS STURNS: Well, I certainly  
7 appreciate the response that we got from the industry,  
8 and, certainly, it's helped me to understand the  
9 value -- face value. And I too would like to thank the  
10 staff for the work you've done in putting together the  
11 information we have put forth today. I've heard the  
12 industry spokesperson speak of the problems, and I'm  
13 anxious to figure out what we can do to help this  
14 industry as best we can.

15 CHAIRMAN DYKE ROGERS: Any other comments?

16 I would entertain a motion that we approve  
17 the race dates as requested with Corpus Christi's  
18 amended request dropping Christmas Day, and with Valley  
19 Greyhound's -- Valley Race Park's amended request to not  
20 include November 28th in their schedule.

21 TREVA BOYD: I move.

22 CHAIRMAN DYKE ROGERS: Moved by  
23 Commissioner Boyd. Is there a second?

24 LOUIS STURNS: Second.

25 CHAIRMAN DYKE ROGERS: Seconded by

1 Commissioner Sturns. All in favor?  
 2 THE BOARD: Aye.  
 3 CHAIRMAN DYKE ROGERS: All opposed? Those  
 4 dates are approved. Motion carries.  
 5 And I guess from a Staff position, we  
 6 probably need to be looking at the rules on the number  
 7 of Texas bred and so forth so that we're proactive  
 8 before that becomes a problem.  
 9 TREVA BOYD: Mr. Chairman, I was going to  
 10 ask a question, although I did make the motion, I  
 11 thought that we would have questions.  
 12 CHAIRMAN DYKE ROGERS: Sorry I didn't give  
 13 you a chance to do that. You're welcome to ask it now.  
 14 TREVA BOYD: It's been brought to my  
 15 attention, when you look at Valley Race Park numbers --  
 16 SONNY SOWELL: 3 dash 17.  
 17 TREVA BOYD: 3 dash 17 of the agenda, it's  
 18 probably self-explanatory, but I need some help. It  
 19 says opening day is January the 1st, '07, closing day is  
 20 April the 7th, '07. You get down to the performances,  
 21 and 5, 13, 3 and 2 don't add up to 143. On the charity  
 22 days, you add them in there, of course. On page 3 of  
 23 17 -- is it just my math? I'm sure they're on the  
 24 expanded race schedule; it's just on this summary page  
 25 it looks to be a conflict.

1 SONNY SOWELL: Sammy, can that be  
 2 explained easily?  
 3 CHAIRMAN DYKE ROGERS: Yes, Dr. Carter.  
 4 DR. KENT CARTER: Looking at that it  
 5 appears to be that perhaps the second set of race dates  
 6 just needs to be included in that sentence. It says  
 7 opening and closing, but then there's another opening  
 8 and closing that's not included if I'm reading it right.  
 9 TREVA BOYD: The last part of the year.  
 10 DR. KENT CARTER: So what I said is  
 11 correct?  
 12 AUDIENCE: I believe so.  
 13 CHAIRMAN DYKE ROGERS: After sorting  
 14 through this, which I don't have any idea where this  
 15 confusion is, do we need to amend this motion or are we  
 16 okay the way we've got it?  
 17 MARK FENNER: We're okay.  
 18 TREVA BOYD: Thank you very much.  
 19 CHAIRMAN DYKE ROGERS: Thanks for keeping  
 20 us on our toes.  
 21 D. Approval of the Commission's Legislative  
 22 Appropriations Request for Fiscal Years 2008-2009  
 23 CHAIRMAN DYKE ROGERS: Okay. Under tab  
 24 number 4, we come to the most interesting part of this.  
 25 It's the legislative appropriations request for fiscal

1 years 2008 and 2009.  
 2 Ms. King, would you give us a presentation of  
 3 what we're looking at here?  
 4 CHARLA ANN KING: Yes, Mr. Chairman.  
 5 Commissioners, we have taken the  
 6 development of our appropriations request very  
 7 seriously. We've been asked to propose our budget with  
 8 a 10 percent reductions from our '06 and '07 budget  
 9 levels, that most everybody is aware. We have done that  
 10 with great care and consideration of all that it takes  
 11 to provide regulation of this racing industry. This has  
 12 not been easy. The proposed budget includes cuts for  
 13 key people at our agency, and it has been difficult to  
 14 put these reductions up for discussion and  
 15 consideration.  
 16 It has been particularly hard because of  
 17 past budget reductions, which the agency has not  
 18 recovered. We have gone through the budget in a new way  
 19 involving key managers trying to open the process of  
 20 communication to all staff, and to members of the  
 21 industry's most directly affected by the proposal. I  
 22 anticipate that lack of discussion will occur after  
 23 submission of the budget tomorrow opening the door to  
 24 working with our stakeholders directly as we move  
 25 forward on the budget.

1 I need to call to your attention a  
 2 difference in the proposal compared to years past. To  
 3 get to the 10 percent reduction, we have included a  
 4 recommendation that would require a statutory change,  
 5 and that is somewhat uncommon. I have visited  
 6 personally with the Governor's office and legislative  
 7 staff about this approach and feel this is the best way  
 8 to address the challenge. In addition, the legislative  
 9 board staff has been very helpful to us throughout the  
 10 development of the request.  
 11 I'm going to turn this over to Sammy who  
 12 will brief us on the specifics of a request, but first a  
 13 comment on our exceptional item.  
 14 Exceptional items are funding requests  
 15 above the 90 percent base budget. We have the budget  
 16 with a 10 percent reduction, and then we have a  
 17 prioritized list of the items that request funding above  
 18 the 90 percent. We have seven exceptional items, and  
 19 you all received a handout on that in your packet that  
 20 we faxed to you. Now, in terms of those seven  
 21 exceptional items, three of those requests, restoration  
 22 of the 10 percent that we will require to take. Those  
 23 are items 1, 2 and 4, and Sammy will talk in detail  
 24 about that. Three more of our exceptional items are  
 25 derived mainly through state auditor office

1 recommendation, okay, and the need to recover from what  
2 I call past regulatory losses. These are items 3, 5 and  
3 6. And then there's Item 7 which shows just how  
4 complicated this industry can be. We need authority to  
5 expend funds to cover costs of new racetrack application  
6 as those with the entrepreneurial spirit, look to the  
7 Class 2 license model as the successful business  
8 opportunity.

9 So we're headed in a couple of directions  
10 at one time where the industry is struggling  
11 economically causing a need for increase and improved  
12 regulations. We also have on the horizon potential  
13 growth in the industry with the smaller racetrack model.  
14 And it is a lot to say grace over.

15 With that, Mr. Chairman, I'd like to turn  
16 it over to Sammy to go through the specifics and answer  
17 more of your questions.

18 CHAIRMAN DYKE ROGERS: Mr. Jackson.

19 SAMMY JACKSON: Thank you, Chairman.

20 As the Executive Director just said, we  
21 have satisfied the LBB's instructions from the  
22 Governor's office as well about submitting a baseline  
23 budget with a 10 percent reduction. On page 4-1 in your  
24 -- in the packet as well as information we faxed to you  
25 yesterday, you'll see a summary of the 2008/09 base

1 legislative appropriations request the 2007 operating  
2 budget. Along with our legislative appropriations  
3 request will be the operating budget request for '07.  
4 Those are the three items that I really plan on talking  
5 about in detail today.

6 I bring your attention to -- underneath  
7 the projected 2007, legislative base appropriations, the  
8 Agency's projecting \$10,050,716 in appropriation  
9 expenditures for the various strategies that we have.  
10 With the 10 percent reduction, that amount will drop to  
11 \$9,069,711 in '08, and \$9,069,710 in '09.

12 The next section below that details where  
13 those monies are actually expended out, what we consider  
14 the object of expense be it salaries of personnel costs,  
15 professional fees and services, consumable supplies,  
16 travel, rent-building, rent-machine/other. Grants, it  
17 can be the ATB program or capital expenditures.

18 I would like to point out that as you look  
19 at these things, the one area I would like to address  
20 and make sure that you're aware of are other personnel  
21 costs have exceedingly went up over the last four years.  
22 Some of that is due to legislative change. In the past  
23 legislative session, the legislature changed the way  
24 agencies calculate longevity pay for its employees.  
25 This may seem small and a simple change, but for a small

1 state agency, it has dire consequences.  
2 Prior to that legislative session,  
3 longevity payments calculated based on every three years  
4 of service for each state employee received \$20  
5 additional amount. They changed it from three years to  
6 two years in that legislative change. That one change  
7 caused the Agency an excess of \$30,000. The first year  
8 every year thereafter it's cost us an additional 10- to  
9 \$11,000. By the time we get to '09, that one change has  
10 cost us about two FTEs or two positions. The agency did  
11 not get additional appropriations nor did any other  
12 agency in the state. We were told to consume that  
13 within existing appropriations. The only way for us to  
14 do that is to reduce staff.

15 The other item that falls underneath that  
16 is our staff is what we like to joke about as being a  
17 senior citizen staff. We have a lot of employees who  
18 are at 60 or even above, and they're eligible to retire.  
19 We have expectantly, I think, 10 to 12 employees who may  
20 retire within the next two to three years. Because of  
21 that they will be owed some allocation that we must pay  
22 for those employees who have vacation time in the books  
23 or overtime. We have projected in each of these years  
24 based on who is eligible for retirement, how much that  
25 will be. The Agency had to redact an additional 25- to

1 \$30,000 in each year. And if you will look there, one  
2 of the larger years is '09 when we have an additional  
3 two employees retiring over the norm. These costs are  
4 also not appropriated for and something we just consume  
5 within our existing budget.

6 The other item that was passed in the  
7 legislative session, as I'm sure you're all aware of, is  
8 the additional cost of travel. Gas continues to go up,  
9 and as such, the comptroller's office adjusted the  
10 mileage rate that each person's allowed to recoup for  
11 that travel. We've factored in a slight increase to  
12 cover some of those costs. The sum of all that rolls  
13 down to the total amount that we've asked for in  
14 appropriations.

15 I would point next to the FTE count at the  
16 bottom of the page. And you can see if you go back to  
17 2005 where our numbers were at that point, these FTE  
18 counts steadily fall each year. A great deal of that  
19 has to do with these additional costs that we must incur  
20 and shift our FTE counts considerably. A big number  
21 that will happen in 2006 in our plans, because it's  
22 going to get into the large sectional items, is the fact  
23 that agency actually will operate with about 72  
24 positions for this fiscal year. A lot of the costs that  
25 we incur in this year deal with racetrack applications

1 that have been submitted for the Laredo, Webb County  
 2 area. I'll give you some estimates on costs that the  
 3 Agency has incurred to date for this. The background  
 4 costs, the Department of Public Safety, that we need to  
 5 transfer funds to cover that have been estimated about  
 6 \$16,000 to date. The court reporter costs for the SOAH  
 7 hearings that the Agency had to contract and pay for has  
 8 been about \$16,000. In addition, amount that we're not  
 9 going to have to transfer pay, but the SOAH hearing  
 10 itself has been estimated \$23,000 to date. Those  
 11 expenses are outside expenditures and do not even cover  
 12 any of the administrative expenses of the staff.  
 13 However, we did not have any additional appropriation  
 14 for those expenses, so we have shrunk our expenditures  
 15 and our staff levels to make payments on that during  
 16 this fiscal year. When we get into exceptional, I'll  
 17 point out to the one that we're asking to alleviate that  
 18 situation in the future.

19 That's a brief history of the baseline  
 20 budget. For now I'd like to flip to the next page,  
 21 which would be 4-2 which gives you a summary of  
 22 exceptional items requests in total. We're asking for  
 23 seven exceptional items, and of those seven, they total  
 24 to 10.6 additional positions in 2008 and 11.1 in 2009.  
 25 The total balance of that question is 1,358,752 in '08,

1 1,386,752 in '09. The breakdown of where those monies  
 2 will be expended are object-of-expense below. With that  
 3 piece of information I'd like to go over some of the  
 4 exceptional items and give you a little detail about  
 5 them.  
 6 Exception Item 1 is the restoration of 10  
 7 percent cut to our central administration staff. The  
 8 cut would eliminate 2.5 positions to the Agency.  
 9 Specifically, one is a special projects person who deals  
 10 with our information requests as well as many of the  
 11 Agency's reports that need to be filed and deal with the  
 12 wagering public in our racetracks. We would have  
 13 to -- if this is not fulfilled, we would have to shift  
 14 those responsibilities to other people within the  
 15 agency. The other position here would be our  
 16 receptionist who also assists our licensing program  
 17 administrator by doing some of the on-line licensing  
 18 photo and licensing badge requirements where they come  
 19 into the office to get that done. We would have to go  
 20 to an automated phone system, and when people call, they  
 21 would receive an automated answer pickup who would  
 22 direct them to a number to call. The half position is  
 23 our purchaser. We have Shelly as our director of  
 24 accounting/administration, who is also a certified  
 25 purchaser. The Agency's required to make all purchases

1 through a certified purchaser. But we feel like we can  
 2 eliminate a half position there and still maintain the  
 3 requirements that we need. However, we would be  
 4 compensating because our purchaser also serves as our  
 5 property plant and equipment manager as well as our HUB  
 6 coordinator which are requirements by the state. Those  
 7 functions would also have to be shifted around to  
 8 existing personnel.

9 The second item underneath exceptional  
 10 list is the restoration of 10 percent cut to Texas bred  
 11 incentive program. These are the funds that are  
 12 dedicated by statute that the Agency collects and then  
 13 allocates all to the breed registries for the incentive  
 14 awards. It is the largest items in the Agency's budget.  
 15 It makes up over 56 percent of the Agency's current  
 16 budget. There is no way that we can make a 10 percent  
 17 cut without dismantling regulatory programs completely.  
 18 And when I say "dismantling," I mean totally eliminating  
 19 divisions, which is no auditors, SOAH investigators.  
 20 That's the type of thing that we would have to do if we  
 21 did not submit a cut with this program.

22 The third item is restoration of  
 23 regulatory staff position. This is the item that Charla  
 24 spoke about. It is not a 10 percent cut item, but it's  
 25 these diminishing positions that we're having to cut as

1 these additional costs are incurred. This will make up  
 2 one investigative position that the Agency let go  
 3 several years ago, we've never recouped back, one  
 4 auditing position that whenever we did the riff in 2003  
 5 we dismantled the auditing section of the Agency who  
 6 reviewed the Texas bred incentive programs, and we've  
 7 been written by the state auditor's office that we need  
 8 to review that. And also when we made those cuts in  
 9 audit division, we dismantled some of the ability to do  
 10 the inspection and the Tote reviews. So this one person  
 11 that we're asking about will assist in both of these  
 12 areas. One position is also a budget analyst, and one  
 13 of them is a half FTE for additional veterinarian staff,  
 14 .7 for a steward, .4 for a licensing clerk. And I'll  
 15 mention a little bit about budgeting analyst because I  
 16 know people are going to question that.  
 17 When this Agency went through the dramatic  
 18 changes that it did in 2003 and continuing in 2004, one  
 19 of the things that happened was the Agency went from  
 20 three deputy directors down to one. At that time we had  
 21 a deputy director of administration, we had a deputy  
 22 director of racing, we had a deputy director on  
 23 regulatory control. At that time it was my job to be  
 24 the deputy -- deputy director of regulatory control. I  
 25 was over the pari-mutuel auditing aspects of the agency

1 as well as occupational licensing. One of my primary  
 2 functions at that time was to work with the auditor who  
 3 did the review of the Texas bred incentive programs. My  
 4 role now has completely changed. We have lost that  
 5 position due to the budget financial worry, and working  
 6 on these other areas, the only race dates, et cetera.  
 7 This budget analyst position that we're asking for  
 8 is to take some of that burden off of myself as well as  
 9 to assist our director of administration so that I can  
 10 get back to the work I think the Commission really needs  
 11 me to do. And since we've been written up by the State  
 12 auditor's office, we want to make sure we're compliant  
 13 the next time they come around.

14 Moving to exceptional item number 4 is the  
 15 restoration and 10 percent to the supervise racing  
 16 conduct strategy. As Charla Ann articulated for this to  
 17 go through, we have to have a legislative change.  
 18 However, in the event that doesn't occur, we want to  
 19 request this back to make sure that we can still staff  
 20 the racetracks so they can run the dates that they  
 21 requested. Without it, we won't be able to do so.

22 Exceptional Item 5 is funding for wagering  
 23 systems/security testing. This is another item that  
 24 came out of the State auditor's office recommendation.  
 25 I will tell you this, this is \$75,000 per year of

1 contracted services. The Agency doesn't feel it would  
 2 be appropriate to hire a person at that level to bring  
 3 anyone to do work that would not be necessarily required  
 4 all year. What we do believe, though, is we can  
 5 contract the service out, and put our racetracks and  
 6 Tote services on a rotation schedule and achieve what's  
 7 been asked of us of the State auditor's office.

8 One of the areas that we will look at if  
 9 this item is passed is to raise these fees by increasing  
 10 the vendor license fee that we charge our Tote  
 11 companies. Currently our Tote companies pay a vendor  
 12 license fee of \$75 a year. So we think we've identified  
 13 the source of funds to cover this so they will not be  
 14 passed on to our regulated tracks and occupational  
 15 licensees.

16 The sixth item is sufficient travel  
 17 authority. This is a reoccurring exceptional item that  
 18 the Agency has requested over the last few years. This  
 19 gets into our authority to travel out of state. The  
 20 Agency currently has \$5,000 in authority to travel  
 21 outside the state of Texas. Point blank, our Tote  
 22 companies, due to the economic factors that are going on  
 23 in the industry nationally, not just in Texas, are  
 24 centralizing their service sites across North America.  
 25 It is expected within the next 18 months from a server

1 site perspective of Tote systems that we may be at about  
 2 six to eight sites for the entire North American  
 3 continent. None of them will be located in Texas. That  
 4 is the information we have received from the Tote  
 5 companies. For us to be compliant with our rules, we  
 6 must do the inspections at the server site. This is  
 7 also an item that we were suggested to improve on in  
 8 regards to our SAO audit, and this directly links to the  
 9 funding to do it.

10 Also we've joined ARCI in the past year.  
 11 And I think it's easy to say that the Commission is a  
 12 leader in the role of regulatory work specifically when  
 13 it comes to Tote standards in this area, and they want  
 14 us to participate to help and assist and get the rest of  
 15 the country to step up to the plate, and we would love  
 16 to do that. It is not a secret that the national model  
 17 rules committee for ARCI is using Texas standards, rules  
 18 that were written here, to promulgate and get the rest  
 19 of the people onboard. Who better to lead the national  
 20 average than the people who wrote it. We've had  
 21 detailed talks with Ed Martin of ARCI. We were hoping  
 22 to get him down here and work with him to help  
 23 facilitate that. We will all be better off when that  
 24 occurs.

25 The last item is the new racetrack

1 application. I consider this a pass-through exceptional  
 2 item because basically it's asking for a contingency  
 3 rider. In the event a new racetrack application is  
 4 filed with the Commission, then we would get this  
 5 appropriation to cover the cost with it. This gets into  
 6 those items that I delineated earlier about  
 7 reimbursement of DPS, reimbursement for the SOAH hearing  
 8 costs. We're getting an estimate up to 75,000 per  
 9 applicant to cover those costs.

10 The last item I'd like to point to is  
 11 rider revisions. And there are two existing riders that  
 12 I'm crafting to revise. There's rider number 3, which  
 13 is a travel reimbursement limitation for the  
 14 commissioners. Talking with the chairman and several of  
 15 the commissioners, it's been pointed out as the costs  
 16 for travel continue to go up, the \$3,000 that was set in  
 17 that rider does not cover the cost for six commission  
 18 meetings and working group meetings in a year. I've  
 19 worked with LBB a great deal on this, and we have  
 20 crafted this rider, to revise it, to change it from  
 21 3,000 per year to 6,000 per year with no additional  
 22 impact to the budget. It's within the existing funds.  
 23 We don't believe there will be a problem with this rider  
 24 revision being passed.

25 Rider number 6, the criminal history

1 checks and background checks. Currently that rider is  
 2 written only for criminal history checks, which deals  
 3 with the fingerprint cards that each occupational  
 4 licensee submits. This goes to DPS, DPS reviews them,  
 5 and they bill us for that. That specific rider gives  
 6 the agency up to \$25,000 to expend on that function. In  
 7 the past few years we've only expended about 12,500.  
 8 However, DPS has been incurring a great deal of costs in  
 9 doing background checks for transfer or change in  
 10 ownership of existing license racetracks, i.e., Magna,  
 11 Austin Jockey Club and a few others. We have not had  
 12 the authority to pay for those background checks. In  
 13 the attempt to revise this rider to add it to say  
 14 criminal history checks and background checks, we are  
 15 not changing the total amount of funds of 25,000, but  
 16 just asking to use those funds for more than just the  
 17 criminal history checks. We've worked a great deal with  
 18 DPS and Captain Blodgett on that as well as our LBB  
 19 analyst to try to make sure that they're aware of what  
 20 we're doing here.

21 That is the summary of the Agency's  
 22 budgets requests as well as exceptional items. I would  
 23 tell you that the grand total for the exceptional items  
 24 for the two-year period is 2 million, 745 thousand, 504.  
 25 Of that number 1 million, 960 is just restoration of the

1 10 percent, which leaves a balance over the two-year  
 2 period of \$785,382. Of that 785,000, 300,000 of that is  
 3 direct pass-on to someone else. So the total additional  
 4 cost over a two-year period to the regulated population  
 5 is a little under \$500,000 or about -- excuse me, about  
 6 485,000.

7 If you have any questions, I'd be more  
 8 than happy to answer them. With that, I would submit  
 9 this to the Commission for approval.

10 CHAIRMAN DYKE ROGERS: Sammy, thank you  
 11 for a very fine presentation on the budget.

12 There's been a lot work put into this  
 13 particular deal. I might just kind of give you a little  
 14 bit of background. Some month ago or so, all of the  
 15 chairmen of various commissions were invited down to  
 16 hear from the Governor and the Governor's staff about a  
 17 request to reduce our budget and to submit our budget  
 18 with a 10-percent reduction. And I applaud it for the  
 19 thought. And in large agencies, I think part of the  
 20 thinking was that there are a lot of one-time expenses.  
 21 And then if you had to begin as a starting place at 10  
 22 percent off, you would eliminate those one-time expenses  
 23 that might just be hidden as a line item somewhere, and  
 24 then you would justify any restoration back from that.  
 25 So I don't believe the intent was to say that all of the

1 State budget's going to be cut 10 percent because I  
 2 don't believe that has been the historical background.  
 3 But I do think that it gives a good starting place to  
 4 actually look at it and justify where you are.

5 I think in larger agencies it would be  
 6 real easy to have some hidden things that are  
 7 reoccurring that show up. In small agencies, this is  
 8 going to be not just a challenge, it's going to be  
 9 something that we'll really kind of get into the ball of  
 10 the agency, and our agency is one of those. We are one  
 11 of the few agencies, I believe, who went through the  
 12 last cut, which was a 7-percent cut, that didn't get any  
 13 restoration from that cut. Nearly every agency's budget  
 14 was actually -- what they actually spent was more than  
 15 what they were prior to the 7-percent cut. So we have  
 16 not been able to get those things restored.

17 Part of that cut went to the breed  
 18 incentive programs last time, 7 percent across the  
 19 board, and they were not able to get that restored.  
 20 And in this budget there's another, over a two-year  
 21 period, a million-two that comes out of their funds  
 22 again, and those are designed for -- incentive for  
 23 breeding within the industry. In this budget, the  
 24 personnel we're talking about that requires the  
 25 legislative change, would require that one of our

1 stewards at each track be employed by the track, which  
 2 is an additional expense for the association.

3 We are a self-leveling agency, and  
 4 probably the only agency that I can think of or that the  
 5 staff can think of that actually is required to be  
 6 on-site on the businesses that we regulate or open. And  
 7 that's really different than any other agency that  
 8 operates here within the state. And I would hope that  
 9 we will be able to, either as commissioners or as staff,  
 10 be able to make this clear to our legislative budget  
 11 board, to the Governor's office and to the other  
 12 leadership people that are involved in the budget that  
 13 while everybody is going to have a sad story, this story  
 14 gets really kind of into the bone. I doubt there is an  
 15 agency out there that is not going to say that they're  
 16 having problems with the 10-percent, but I doubt that  
 17 there are any that are going to be much deeper than this  
 18 one is. I think the cuts are proportional and they're  
 19 well-thought out, but the exceptional items are  
 20 well-thought out, and we need to pursue every angle we  
 21 can to restore the things that we need restored.

22 The only exceptional item that we've had  
 23 in our budget in the last several years has been the  
 24 breeder's guide, and it's been filtered back out of  
 25 there because the one-time deal is gone. So everything

1 else is really cutting right down to the program. And a  
 2 lot of the things that we have really don't have to do  
 3 with not having the money. We're under budget again  
 4 this year. But a lot of times we can't spend the money  
 5 that we have. And I'll give you just a personal -- this  
 6 is ticky dock compared to rest of the budget, but it's  
 7 like this rider on the travel reimbursement. We have  
 8 \$3,000 per commissioner in the budget. Well, most of  
 9 you drive. And if you ask for reimbursement, it's  
 10 relatively small.

11 I fly and have to spend the night. So I  
 12 get reimbursed for about 60 percent of my travel, so I  
 13 really am doing this as a charitable contribution, which  
 14 I'm sure we all appreciate that. But I can afford to do  
 15 that. But what happens if the next commissioner that  
 16 they choose to do this is from a far reaching point in  
 17 the state, El Paso or Amarillo or another area that you  
 18 have to fly in to get here, you restrict the people who  
 19 can serve on this commission, and you -- it's not really  
 20 an equitable situation. We have the money; we just  
 21 can't expend in the right spot.

22 I think this agency, even though it has  
 23 gone through the 7-percent cut, I think it's done an  
 24 exceptionally good job. It pained me when I heard you  
 25 say that one of the things it would eliminate is the

1 ability to answer the phone. I deal with some other  
 2 agencies in the state that I call. I have one agency in  
 3 particular that I called for five days in a row, had my  
 4 secretary call them every 15 minutes for five days and  
 5 never got an answer through the phone. Finally wound up  
 6 going through somebody else who knew somebody who could  
 7 call somebody to get them to call me back. That's not  
 8 the kind of service that we need to provide, that's not  
 9 the kind of service we have provided.

10 And I think one of the things in all of the  
 11 reports and so forth we've done, maybe dozens, get  
 12 recognized as this agency really does a really good job  
 13 with the funds that it has, and I think is very prudent  
 14 on how it spends it. And we will with whatever cuts we  
 15 have, we will still provide the kind of service we need  
 16 to provide. But the cost here, because we are  
 17 self-leveling, all our money either comes from our  
 18 patrons or our constituents, the constituents wind up  
 19 paying the costs. And so our associations will be  
 20 tapped for more costs. And if they're tapped for  
 21 more costs, it's all going to run downhill before it's  
 22 over. And we're in an industry that's already  
 23 suffering. So I just think it's incumbent on all of us  
 24 to try to restore those areas that really need  
 25 restoration because we're into an area that we're going

1 to do a good job, but it's going to be much more  
 2 difficult to do it, and we're asking our people to do a  
 3 lot more with less. And what we do not want and what I  
 4 don't think the state or the industry can handle is some  
 5 type of scandal because we dropped the ball on some  
 6 regulatory thing that we really could have and should  
 7 have been there for if we had the funds to do it. So  
 8 I -- this is -- it's a very difficult budget to say that  
 9 we need to approve this request, although I know we  
 10 really have no choice, and you've done a great job to  
 11 put it together. I know we're going to have some people  
 12 testify on it, but I think in the end we need to do what  
 13 we can to restore those things that are critical to our  
 14 operation.

15 Thank you, Sammy.

16 Now, we have some people that would like  
 17 to talk on the subject.

18 MR. FENNER: Mr. Hooper has expressed an  
 19 interest.

20 CHAIRMAN DYKE ROGERS: Mr. Hooper.

21 MR. FENNER: And Rob Werstler.

22 MR. HOOPER: Mr. Chairman, members. I'm  
 23 David Hooper, director of the Texas Thoroughbred  
 24 Association. Certainly, the dialogue that's just taken  
 25 place from three different people, there's a significant

1 amount of work that's been done on this budget. And  
 2 I've had communication with Sammy and Charla Ann on  
 3 several occasions, in particular relative to the  
 4 Texas-bred incentive program.

5 This is a statutorily dedicated fund, and  
 6 frankly, should not have been subject to reduction at  
 7 any time in previous years, but it has been. There has  
 8 been dialogue among the breed organization about  
 9 possibly challenging it in court, and it was felt that  
 10 discretion was the better part of valor because if you  
 11 challenge it in court, and then we may have some other  
 12 major legislative issue, and we had -- not getting that  
 13 passed or we get punished in some other way.

14 Certainly on behalf of the Texas Thoroughbred  
 15 Association, I can assure you that we are in great  
 16 support of the request for restoration of the 10-percent  
 17 cut of the Texas-bred incentive program. And we believe  
 18 it's critical, critical at this time in particular  
 19 because we have people who are sitting on the fence as  
 20 to whether they need to move their breeding stock to  
 21 other states where -- already because of the fuel  
 22 incentive programs and purses and -- at tracks in  
 23 neighboring states. They can earn a significant higher  
 24 amount of dollars from those states' incentive programs  
 25 than what they're earning here. It was somewhat

1 surprising to me as we conducted five regional meetings  
 2 around the state in the month of June that I had half a  
 3 dozen to eight or ten breeders who came up to me and  
 4 said that they had not bred their mares this last year.  
 5 And that puzzled me, but that's the kind of quandary  
 6 that our breeders are facing. It's a serious challenge  
 7 of what to do. Do you get out of the business, do you  
 8 continue to push on in Texas and have fewer dollars to  
 9 run for, which of course, that's what happens when the  
 10 ATB program is tapped, or do you go out of state? And  
 11 we've had breeders make all those difficult decisions in  
 12 one way or the other. I'd be happy to answer any  
 13 questions.

14 CHAIRMAN DYKE ROGERS: Any questions?  
 15 Thank you. Mr. Werstler.

16 MR. WERSTLER: Good morning,  
 17 Commissioners. Rob Werstler representing Texas Quarter  
 18 Horse Association.

19 I want to echo Mr. Hooper's eloquent remarks  
 20 about the industry and his association's stance. We're  
 21 basically a mirror image of theirs, but we also support  
 22 the Texas-bred incentive program being part of the  
 23 exceptional items request. We also are seeing a  
 24 decline. I had a conversation a couple days ago at the  
 25 horse sale in Dallas. Their sales are down about 50

1 horses, our sale two weeks ago was down about 30 horses.  
 2 Some other sales were also down, and we were wondering  
 3 where those horses are. It appears that people aren't  
 4 breeding -- I've asked some of our farmers -- it appears  
 5 people aren't breeding mares to our stallions. Most of  
 6 those horses are going to be sold in New Mexico and  
 7 Louisiana.

8 We also understand that this Commission  
 9 and the staff has been placed in a very difficult  
 10 situation, and we're willing to help you alleviate this  
 11 in any way we can. Thank you.

12 CHAIRMAN DYKE ROGERS: Any questions?  
 13 Thank you.

14 Is there anyone else who would like to  
 15 speak on the subject? Commissioners, your thoughts?

16 TREVA BOYD: I'd like to ask Charla Ann  
 17 how does your information gathering speech or whatever  
 18 go towards the legislature; what was the outcome of  
 19 that, what was your feeling about how they took it all?

20 CHARLA ANN: The committee -- the house  
 21 committee on licensing administrative procedures had the  
 22 interim charge to look at racetracks and see if they  
 23 could figure out ways to make racetracks more attractive  
 24 is the way the charge read. They invited testimony from  
 25 us and then also from Mr. Azopardi. We testified. They

1 were very interested, they asked a lot of good  
 2 questions. Where they were headed was they're looking  
 3 for ways that the legislature can assist the industry.  
 4 They all have discussed in the past other legislative  
 5 proposals, VLT legislation; obviously, those efforts are  
 6 going forward. But really the focus of this discussion  
 7 was what else can be done. And they asked some  
 8 questions about the issue of promotion and development  
 9 of the industry from the state's  
 10 perspective, and asked questions about what could the  
 11 agency do, could we coordinate our economic development  
 12 efforts, perhaps with other agencies. That was kind of  
 13 the line of their questions. And I indicated to the  
 14 committee and to the members individually that the  
 15 Commission was interested in these issues and encouraged  
 16 them, you know, to be in contact with you all, the  
 17 members of the Commission, and that we would be happy to  
 18 explore any of those options and help them study that  
 19 and provide feedback as they request.

20 TREVA BOYD: I read a summary -- your  
 21 summary, and I appreciate it very much because it was  
 22 aggressive but used appropriate restraint, but I think  
 23 that it got some things on the table that we needed to  
 24 discuss, so I appreciate that as well. And I appreciate  
 25 Mr. Azopardi's contribution to that because I think it

1 just reinforced what we've heard here today.

2 CHAIRMAN DYKE ROGERS: Any other comments on the  
 3 budget request? Okay. I'd like to entertain a motion  
 4 to approve the legislative appropriations request for  
 5 2008/2009.

6 MR. SOWELL: I move.

7 CHAIRMAN DYKE ROGERS: Moved by  
 8 Commissioner Sowell. Is there a second?

9 TREVA BOYD: Second.

10 CHAIRMAN DYKE ROGERS: Second by  
 11 Commissioner Boyd.

12 CHAIRMAN DYKE ROGERS: Is there any  
 13 discussion?

14 All in favor?

15 THE BOARD: Aye.

16 CHAIRMAN DYKE ROGERS: We will submit this  
 17 to the proper people.

18 IV. PROCEEDINGS ON RULEMAKING  
 19 Discussion, consideration and possible action on the  
 20 following rules.

21 CHAIRMAN DYKE ROGERS: Discussion,  
 22 consideration of possible action on the following rules  
 23 we will look at Chapter 301. Mr. Fenner.

24 Rule Reviews Under Texas Government Code, Section  
 25 2001.039.

1 A. Chapter 301, Definitions.

2 MARK FENNER: Mark Fenner, General

3 Counsel.

4 Commissioner's, Government Code 2001.039  
5 provides that State agencies must review the rules at  
6 least once every four years. Therefore, we've put  
7 forward Chapters 301 and 303 today. Chapter 301 is the  
8 definitions section of our rules. We've made some  
9 modest suggestions for changes. The first one you'll  
10 find on page 1 of 14, the addition of a definition for  
11 concession.

12 Section 6.03 of the Act provides that Tote  
13 and concession contracts must be reviewed by the  
14 Commission. But there is no definition of concession.  
15 Oddly enough, concessionaire is defined in the Act,  
16 which is defined as one who is licensed to sell  
17 souvenirs or refreshments. I've had it suggested to me  
18 that based on that definition, that the word  
19 "concession" can only mean that -- the types of  
20 contracts that can be approved by the Commission are  
21 limited to refreshment/souvenir concession contracts. I  
22 think that that's probably limited to a few, creates  
23 opportunity perhaps for mischief. Therefore, I have put  
24 forward this definition. And I did not have a model  
25 rule to work from. I pulled some definitions from other

1 Those are the only changes that I'm  
2 putting forward at this point on Chapter 301. I believe  
3 there are a couple of people who would like to provide  
4 public comment, Mr. Vitek and Mr. Brown. And I'll be  
5 happy to answer any questions that you may have.

6 CHAIRMAN DYKE ROGERS: Any questions for  
7 Mr. Fenner?

8 Mr. Vitek.

9 MIKE VITEK: Can I yield to Mr. Brown?

10 CHAIRMAN DYKE ROGERS: Certainly.  
11 Mr. Brown.

12 BRYAN BROWN: Good morning, Commissioners.  
13 Bryan Brown, Retama Park.

14 I want to give you my interpretation of  
15 the new definition of "concession" and maybe pose  
16 questions of Mr. Fenner as to whether I'm reading it  
17 properly, and maybe needing clarification.

18 The definition of "concession" is  
19 important as it relates to Section 309.162 of the rules  
20 which calls for the approval of management, totalisator,  
21 and concessionaire contracts. And as I read the  
22 definition of "concession," this would greatly  
23 potentially broaden the definition, or the numbers of  
24 contracts we have to come to this Commission for  
25 approval. And I'll give you some examples. And first

1 states and other context. And so this version I put  
2 forward, certainly, I'm open to suggestions, but this is  
3 what I would put forward as being an appropriate  
4 solution. I don't see it as an expansion of the  
5 Commission's role, but rather just formalizing what you  
6 do already.

7 The next change that you'll see is on page  
8 9 of 14. You'll see that we're changing the "Odds  
9 board" to "Tote board." This change is to bring the  
10 terminology that's currently used within the industry up  
11 to date in our rules.

12 And then the third change and last change  
13 in Chapter 301 is to redefine "race meeting." If you'll  
14 look at the current definition of race meeting is a  
15 group of days in which horse or greyhound racing is  
16 conducted at a racetrack; we're concerned that the  
17 current definition is too narrow, and that one could  
18 interpret it to apply only to live racing, not  
19 simulcast.

20 Now, the definition that I've substituted  
21 here does come from the model rule, and is broad enough  
22 to incorporate both live and simulcast racing. We've  
23 looked at it from the perspective that it has  
24 consequences elsewhere in the rules, and we don't  
25 believe it does.

1 let me kind of interpret this definition as I read it; I  
2 could be wrong.

3 The definition says, "a contract that  
4 grants the right to sell products and services to any  
5 patron or licensee within the physical boundaries of a  
6 racetrack facility." In my opinion, an association  
7 would be a licensee. So any contract that the  
8 association enters into that grants the right to sell a  
9 product or service to that association would be a  
10 contract that would have to come to this Commission for  
11 approval. The way I broadly read this -- if I'm  
12 incorrect, then I have a lot less problems with this  
13 definition. And an example of what could happen was  
14 that in view of the definition, we have a contract for  
15 banking services at Compass Bank, for example, under  
16 Section 309.162, paragraph C, we could not have a loan  
17 from Compass Bank nor could we get anything of value  
18 from Compass Bank by virtue of entering into that  
19 contract. We have both a sponsorship agreement with  
20 Compass and a loan. Those are both not allowable under  
21 309.162-C.

22 The other problem with that definition,  
23 there's probably -- I'm going to give you a wild  
24 guess -- 40 contracts that we have that would fall under  
25 this definition. In addition to not being able to get a

1 loan or anything of value from any of those people,  
 2 those companies or persons would be potentially subject  
 3 to the full DPS back -- or a form of the full DPS  
 4 background check that's not currently done. And that's  
 5 required under 309.162, paragraph B.

6 In addition to that, all those companies  
 7 would have to submit annual financial statements to the  
 8 Commission. And I guess what I'm getting at is we're  
 9 talking about a big, huge creation of red tape and  
 10 bureaucracy that I don't know that any of us want,  
 11 particularly given the budget cuts that this staff is  
 12 looking at. And if I'm incorrect, if an association is  
 13 not a licensee, all we're looking at is a copy that  
 14 purely supplies a product or service to a patron or a  
 15 licensee other than the association, then you're talking  
 16 about a much narrower focus of contracts that would have  
 17 to come to this Commission. I guess I have a big  
 18 question there and a great concern if that is how it  
 19 will be defined.

20 CHAIRMAN DYKE ROGERS: If it were defined  
 21 that way, I think it would be a great concern.

22 Mr. Fenner.

23 MARK FENNER: That is a good idea, and not  
 24 what I was anticipating with association. If I may  
 25 suggest that we could address that concern by end of the

1 definition on page 1 of 14 before the word "licensee,"  
 2 perhaps we could insert the word "occupational" so that  
 3 it became an occupational licensee rather than an  
 4 association license.

5 BRYAN BROWN: And then the only concern  
 6 could be there -- we don't have any contracts ourselves  
 7 with providers, a fee, other equipment, but that may  
 8 want to be looked at because it may have another  
 9 unintended consequence of putting a lot of scrutiny on  
 10 those providers as well.

11 MARK FENNER: I did anticipate for this to  
 12 cover things like backsides and -- anywhere where  
 13 there's an opportunity for mischief, frankly. I think  
 14 the Commission should reserve the right to review the  
 15 contracts. Now, these are not, you know, pay and fee  
 16 that we provide to the association, but to people on the  
 17 backside, trainers and such.

18 BRYAN BROWN: The rule is not reserving  
 19 the right. The word is "shall" in the rule, so the  
 20 contract would have to be submitted -- would have to  
 21 come to this Commission, and then the company itself  
 22 would be subject to potential DPS background check,  
 23 which everybody may want. I don't know. But it does  
 24 bring a lot to play with Section 309.162. And I would  
 25 definitely suggest we further study this for -- even

1 moving it to the next step.

2 CHAIRMAN DYKE ROGERS: Any questions?

3 MIKE RUTHERFORD: Would a trainer have to  
 4 break his contract between a trainer and owner since  
 5 he's providing services at the racetrack; does anybody  
 6 know?

7 MARK FENNER: I'm sorry, would you repeat  
 8 the question?

9 MIKE RUTHERFORD: A trainer, would he have  
 10 to break a contract between either the client or the  
 11 horse owner since he's providing services at the  
 12 racetrack?

13 MARK FENNER: That was not my  
 14 anticipation -- or my expectation, sir. This was  
 15 intended to cover contracts by associations that grant  
 16 the right to sell products or services to patrons or  
 17 occupational licensees.

18 LOUIS STURNS: Mark, this definition, you  
 19 said you got it from a -- not within the context of  
 20 racing?

21 MARK FENNER: Correct.

22 CHAIRMAN DYKE ROGERS: Any other thoughts?  
 23 Mr. Vitek.

24 MIKE VITEK: Mike Vitek with Valley Race  
 25 Park. I actually took a different view than Mr. Brown

1 and was looking at just the sale of products or services  
 2 to a patron. Even by simply narrowing the rules that I  
 3 focused, I can still come up with tens, maybe hundreds  
 4 of such contracts, a band performing on our apron and  
 5 selling a T-shirt to a patron. We've had up to three  
 6 bands a night on some nights. Sponsors that may be  
 7 doing signups to sell TXU energy, to sell power to  
 8 customers, park work or jewelry on consignment, video  
 9 games, shoe shine stand, one-day vendor selling cotton  
 10 candy on July 4th. My suggestion to the Commission and  
 11 the staff is that we further study the impacts of  
 12 this -- wording in this definition even if we just do  
 13 make the change that you suggested that we could be  
 14 opening this up to a lot of work.

15 CHAIRMAN DYKE ROGERS: Okay.

16 MARK FENNER: If I can address that.  
 17 First of all, I would suggest that the Commission  
 18 already has the broad authority that I was afraid of  
 19 because it already provides that the Commission shall  
 20 approve concession contracts. Any definition is going  
 21 to be limiting beyond what the broad authority already  
 22 is. I welcome the opportunity to discuss it further as  
 23 exactly what they believe the comment to read.

24 CHAIRMAN DYKE ROGERS: Thank you.

25 KENT CARTER: Tell me the old definition

1 again, please.

2 MARK FENNER: There is not one. There is  
3 no definition of either the -- of statute or the rules  
4 of concession. There is a definition of concessionaire  
5 which says "one who is licensed to sell refreshments or  
6 souvenirs." It's my belief that that definition is not  
7 to define concession, but rather to define those who  
8 must be licensed in order to provide concession.

9 CHAIRMAN DYKE ROGERS: Mr. Philips.

10 HOWARD PHILIPS: Commissioners, I'm Howard  
11 Philips representing Manor Downs.

12 I agree with what's been said on this  
13 concession contract. But what I want to bring to you is  
14 more of a historical perspective in that  
15 concession/concessionaires originally conceived in 1989  
16 and 1990 was a great concern about outside state  
17 influences in concession contracts, literally what they  
18 are today, food and beverage, really, and the fact that  
19 there would need to be extensive DPS background checks,  
20 and that's where the so-called mischief occurs, and we  
21 were approached by several of them and were warned about  
22 them. And that's where the whole concession concept  
23 came from, and I think broadening this, and we're going  
24 way overboard. I think the DPS does a very good job  
25 checking that, and the tracks are very aware of

1 concession contracts and Tote contracts and who they're  
2 dealing with. And we've been very, very diligent in  
3 anything that can -- you know, smack of any mischief.  
4 But from a historical perspective, I think that's  
5 exactly where concession and concessionaire came from.

6 CHAIRMAN DYKE ROGERS: Any other comments?

7 We have two choices, we can -- we have  
8 several choices. One is to make a motion to publish  
9 this as it stands with the change in occupational  
10 license, or one is out to refer this back to the staff  
11 and let them look at all these different options and see  
12 whether there's another way to narrow this down. I  
13 think the one thing we don't to do, I don't think we  
14 want to approve the hay contract. I mean, we can -- I  
15 don't know how this actually fits into the other section  
16 on the shallow portion, that's the part that bothers me  
17 is, is this going to require something that's a whole  
18 lot deeper than what we really plan on doing. I guess  
19 my thought would be that rather than publish and then  
20 republish, that maybe this is something that we might  
21 want to table till the next meeting to be sure what the  
22 consequences really are. But I'm open to any motion.

23 KENT CARTER: I move that motion.

24 LOUIS STURNS: I second it.

25 CHAIRMAN DYKE ROGERS: Motion to table

1 this until our next meeting. Seconded. All in favor.

2 THE BOARD: Aye.

3 CHAIRMAN DYKE ROGERS: Why don't we take  
4 about a five-minute break.

5 MARK FENNER: Can we ask, are we going to  
6 table all the changes or -- is anyone concerned on the  
7 other issues?

8 If you take action on the other two items,  
9 in essence, we are moving forward with the rule review.  
10 And the concession contract, we would be at liberty to  
11 bring forward in the future, but it would -- not within  
12 the context of the rule review.

13 CHAIRMAN DYKE ROGERS: Do you have a  
14 recommendation for us here?

15 MARK FENNER: If you think that the  
16 concession contract is an issue that should be  
17 addressed, then I would prefer taking it all at one  
18 time. If you would prefer to move on and take it up or  
19 not, you know, go ahead and move on.

20 CHAIRMAN DYKE ROGERS: Why don't we leave  
21 it as table on the whole section, and we'll have time to  
22 discuss this.

23 Let's take about a five-minute break.

24 (Break.)

25 CHAIRMAN DYKE ROGERS: I think we resume

1 now with proposal to -- Chapter 303, general provisions  
2 with Mr. Fenner.

3 B. Chapter 303, General Provisions

4 MARK FENNER: Commissioners, 303 was also  
5 under Government Code 2001.039 of the rule review. The  
6 first change that we're proposing is on page 209. What  
7 we're suggesting is that Section 211-D of the Racing Act  
8 provides its Commission tell about the rules that  
9 provides the public with a reasonable opportunity to  
10 speak on issues under this jurisdiction. This is one of  
11 the Sunset Commission's across the board  
12 recommendations. It was enacted -- a statute by the  
13 Sunset Review Commission. This is a good opportunity to  
14 address that issue before Sunset returns at their next  
15 by-in. So what we're proposing is to add the words "The  
16 public is invited to comment regarding any agenda item  
17 or any issue under the jurisdiction of the Commission.  
18 Public comments may be limited to a reasonable number,  
19 frequency and length."

20 The next change is merely an edit,  
21 correcting a typo error. That's at the bottom of page 2  
22 of 9 where we're inserting the word "to." It now says  
23 "attempting to enforce or administer the Act for  
24 Commission rules." There's another change in section  
25 303.31, inserting the words "live" and "simulcast."

1 This is the same sort of issue we addressed -- suggested  
2 in 301 to broaden the -- clarify that the Commission  
3 does have the authority to regulate not only live but  
4 simulcast wagering.

5 The next change is on the next page, page  
6 3 of 9. The Texas Arabian Breeder's Association has  
7 notified us that they've re-adopted their rules, but no  
8 substantive revisions. This change merely reflects the  
9 new date that -- their most currently adopted rule.

10 Finally, we are suggesting some changes to the  
11 x-chart, which is at the back of the materials on Tab 6.  
12 These changes are, first of all, to include theft as a  
13 factor that would preclude someone from being licensed  
14 for any category. And then we are including "felony  
15 driving while intoxicated" as a factor that would  
16 preclude somebody who is trying to be licensed as an  
17 authorized agent, entry clerk, a tattooer, a tooth  
18 floater, or a veterinarian's assistant. The reason we  
19 selected these items is these are people who always have  
20 the authority to drive on the back side. So, therefore,  
21 felony DWI is relevant as to whether or not they should  
22 be licensed.

23 And one last change, we would like to  
24 delete the columns labeled "chart rider" and "cool-out."  
25 It's not that we don't have these people on the back

1 side, but they're already licensed under other  
2 categories. In fact, our computerized database no  
3 longer lists these as types of licenses. Those just  
4 kind of reflect the current status.

5 Those are the only changes that we're  
6 proposing for Chapter 303. I have not received any  
7 comment cards on this chapter. I'd be happy to answer  
8 any questions that you may have.

9 MICHAEL RUTHERFORD: What's the difference  
10 between a felony driving while intoxicated or a plain  
11 DWI; is there a difference?

12 MARK FENNER: Maybe I can defer that to  
13 Mr. Neely.

14 LOUIS STURNS: It's going to be -- a  
15 felony DWI you have to have three prior convictions. A  
16 third DWI makes it a felony as opposed to a first  
17 offense or second offense.

18 THOMAS NEELY: So this does restrict it to  
19 felony DWIs, which under the new penal code it does  
20 include some situations, such as having someone under  
21 the age of 15 in the vehicle at the same time, and  
22 that's a DWI, would also constitute as a felony.

23 CHAIRMAN DYKE ROGERS: Thank you.

24 Any comments on this, Commissioners?

25 KENT CARTER: I have a question. I read

1 through this, and I heard you say a veterinarian's  
2 assistant, then I look over here and they have farrier's  
3 assistant.

4 MARK FENNER: Did I misspeak?

5 KENT CARTER: A farrier's assistant was  
6 not included, and I'm wondering what's the difference;  
7 are they not licensed to drive? On the first page of  
8 the chart, bottom corner, right-hand side.

9 MARK FENNER: Sure, we can do that.

10 CHAIRMAN DYKE ROGERS: Add the farrier's  
11 assistant to the felony DWI charge.

12 I would entertain a motion to publish  
13 Chapter 303 with the amendments described in the packets  
14 and the additional request by Dr. Carter to add the  
15 farrier's assistant to the DWI charge for publication in  
16 the Texas Register as a proposed rule.

17 JESSE ADAMS: So moved.

18 SONNY SOWELL: I second it.

19 CHAIRMAN DYKE ROGERS: Moved by  
20 Commissioner, seconded by Commissioner Sowell. All in  
21 favor.

22 THE BOARD: Aye.

23 CHAIRMAN DYKE ROGERS: The motion passes.

24 We are going to skip this next item and we  
25 will move to -- and the reason we're going to skip this

1 proposal by Sam Houston Race Park to change their race  
2 dates, we noted that the dates that they're asking to  
3 drop, the ones that are on the Christmas dates, are in  
4 their request for next year's race date suggestions,  
5 so they're -- that they're requesting, and next year  
6 they're asking to drop them to this year. And I think  
7 we probably will have a discussion about that in that  
8 process system as to why we're doing one and not the  
9 other. And I think we'll move to proceedings on  
10 racetracks.

11 MARK FENNER: Are you on Tab 7, proposal  
12 Sam Houston Race Park, the proposal to amend rule  
13 303.42?

14 CHAIRMAN DYKE ROGERS: I'm sorry. I  
15 misread that. This is the proposal for 303.42.

16 Ms. McGovern.

17 Proposals

18 Proposal by Sam Houston Race Park to amend  
19 303.42(d)

20 ANN MCGOVERN: Good afternoon. My name is  
21 Ann McGovern representing Sam Houston Race Park. This  
22 rule addresses the recipient of charity, charity day  
23 funds. The change we propose applies to the racing  
24 animal portion of the rule. Currently the rule limits  
25 racing animal charities for those charities that are

1 primarily for research equine organizations. We're  
 2 requesting to expand the rules to include  
 3 welfare-oriented organizations. We're very concerned  
 4 about what happens to animals after their racing careers  
 5 are over. And this change would allow a racetrack the  
 6 opportunity to consider adoption/rehabilitation programs  
 7 as well as research programs when we decided our charity  
 8 date allocations.

9 I'd be happy to answer any questions.

10 KENT CARTER: I have one. I noticed  
 11 in the greyhound dates, that they have a mixture. Are  
 12 you talking about replacing research dates or adding  
 13 charity dates?

14 ANN McGOVERN: No. The proposal that we  
 15 submitted would add the word "welfare" to the definition  
 16 so that a track had the opportunity to either donate  
 17 their funds to a welfare-oriented organization or a  
 18 research organization.

19 KENT CARTER: At your discretion?

20 ANN McGOVERN: Well, it's always subject  
 21 to the approval of the Executive Director, but, yes. If  
 22 we found an adopt program or a rehabilitation program  
 23 that we felt was worthy, we would like the opportunity  
 24 to submit them for consideration.

25 KENT CARTER: Thank you.

1 CHAIRMAN DYKE ROGERS: Any other  
 2 questions, comments? Thank you.

3 MARK FENNER: Commission staff has no  
 4 recommendation on a position for this.

5 CHAIRMAN DYKE ROGERS: Any thoughts?  
 6 Yes, Mr. Adams.

7 JESSE ADAMS: My question would be that  
 8 currently the research dollars would at least be diluted  
 9 under this solution approach, and what are they being  
 10 used for right now?

11 CHAIRMAN DYKE ROGERS: Ms. McGovern.

12 ANN McGOVERN: I'm not sure on eliminating  
 13 any dollars from research necessarily; you're just  
 14 giving the track the opportunity to support organization  
 15 to help find homes. When I say "welfare" --

16 JESSE ADAMS: I understand, but that  
 17 wasn't the question. My question was what are those  
 18 research dollars being spent for right now?

19 ANN McGOVERN: Well, each track has the  
 20 opportunity -- I believe the rule -- I don't have the  
 21 rule in front of me, but it states that we must provide  
 22 at least one charity day that benefits an organization  
 23 that's primarily research-oriented for racing animals.

24 In Sam Houston Race Park's case we have  
 25 donated our funds to an organization called HERO,

1 Houston Equine Research Organization. I believe Lone  
 2 Star Park and Retama both donate funds to Texas A&M. But  
 3 the organizations that we donate to are approved, or  
 4 must be approved by the Executive Director. If there's  
 5 an issue with those organizations they can say "Give us  
 6 another organization that you'd like to support."

7 Also the Racing Act calls for a certain  
 8 amount of the breakage, and I don't have it in front of  
 9 me, but a certain amount of breakage is dedicated to  
 10 research only for Texas A&M. And those are totally  
 11 different from -- than the charity days that are  
 12 generated from the racetrack.

13 CHAIRMAN DYKE ROGERS: Any other  
 14 questions?

15 KENT CARTER: The Texas Equine Research  
 16 Fund is not only for Texas A&M. That's a separate  
 17 committee that seeks proposals statewide.

18 ANN McGOVERN: I'm sorry. I thought  
 19 that's what I read in the bulletin. They are mentioned  
 20 in the Act. I thought it was referring to them.

21 KENT CARTER: One of the agencies with the  
 22 Texas A&M system governs it and coordinates it, but it's  
 23 a statewide program. It's purposely set up that way. I  
 24 think one of your questions was would this dilute the  
 25 research dollars, I think the answer would have to be,

1 yes, would it not.

2 ANN McGOVERN: I'm not sure "dilute" is  
 3 the right word. Currently our charity days at Sam  
 4 Houston Race Park generate 7- to \$9,000. My  
 5 understanding is that the breakage money that goes to  
 6 the fund overseen by Texas A&M can be up to a million  
 7 dollars in any given year. I don't know if that's  
 8 accurate or not, but I've been told that there's a  
 9 significant amount of money for breakage above what the  
 10 charity days generate. So the \$7,000 change benefiting  
 11 horses that may end up being recipients of that research  
 12 eventually -- I don't think that that's going to make a  
 13 huge difference.

14 KENT CARTER: I don't remember the budget  
 15 being a million dollars recently.

16 ANN McGOVERN: That may have been a long  
 17 time ago.

18 KENT CARTER: I think that's a little --  
 19 that might have been a hope one day, but unfortunately  
 20 it hasn't made it.

21 SONNY SOWELL: Mr. Chairman, last year I  
 22 believe it was 98,000.

23 ANN McGOVERN: It has gone down.

24 CHAIRMAN DYKE ROGERS: Well, it's in the  
 25 neighborhood of a million.

1 ANN McGOVERN: I think it's important to  
 2 realize, though, that the issue of finding racing  
 3 animals, not just horses but dogs, homes after their  
 4 career is over is not just something for people who  
 5 love horses. It's something the industry has to  
 6 address. It has become an issue that's talked about  
 7 nationally. There's legislation now regarding the  
 8 slaughter of horses. It's something that not only do I  
 9 personally feel strongly about, but I think it's the  
 10 right thing to do for the industry is to support  
 11 organizations that help find homes for these animals and  
 12 make them productive after their racing career is over.  
 13 MICHAEL RUTHERFORD: I'd like to echo what  
 14 Ms. McGovern is saying because it's happening all over  
 15 the country. The press is talking about it. The  
 16 welfare is getting to be a very big issue for horses  
 17 after their racing career ends. And I think it's very  
 18 important, and I'm glad to see that you all would be  
 19 willing to do that.  
 20 ANN McGOVERN: Thank you. Any other  
 21 questions?  
 22 CHAIRMAN DYKE ROGERS: Thank you.  
 23 Okay. I'd entertain a motion that we  
 24 publish Rule 303.42 with the amendments as described and  
 25 contained in our packets for publication in Texas

1 Register as a proposed rule amendment.  
 2 LOUIS STURNS: So moved.  
 3 MICHAEL RUTHERFORD: I second it.  
 4 CHAIRMAN DYKE ROGERS: It's been moved by  
 5 Commissioner Sturns, seconded by Mr. Rutherford.  
 6 Any discussion?  
 7 All in favor?  
 8 THE BOARD: Aye.  
 9 CHAIRMAN DYKE ROGERS: Motion passes.  
 10 We will have consideration of and possible  
 11 action on the request by Retama Partners Limited for  
 12 approval of a change of ownership. Mr. Neely.  
 13 V. PROCEEDINGS ON RACETRACKS  
 14 Consideration of and possible action on the  
 15 following matters:  
 16 A. Request by Retama Partners, Ltd., for Approval of  
 17 a change in ownership  
 18 THOMAS NEELY: These changes are  
 19 reflective of some situations where estates were  
 20 disposed of, and these new persons are the ones that  
 21 inherited the interest. Each one of them was checked  
 22 through the Department of Public Safety, so each one of  
 23 them is eligible to be interest owners within the  
 24 racetrack.  
 25 CHAIRMAN DYKE ROGERS: Any questions for

1 Mr. Neely?  
 2 I would entertain the motion to approve  
 3 the request for transfer of ownership interest in Retama  
 4 Partners from the Estates of J.R. Preston and John B.  
 5 Armstrong, Dorothy Gold and Glenn G. Mortimer.  
 6 SONNY SOWELL: So moved.  
 7 JESSE ADAMS: I second it.  
 8 CHAIRMAN DYKE ROGERS: Moved by  
 9 Commissioner Sowell, seconded by Commissioner Adams.  
 10 All in favor?  
 11 THE BOARD: Aye.  
 12 CHAIRMAN DYKE ROGERS: Motion passes.  
 13 Austin Jockey Club Update. I'd like to  
 14 recognize Mr. Burleson.  
 15 C. Austin Jockey Club Update  
 16 MIKE BURLESON: Good morning,  
 17 Commissioners. I'm Mike Burleson. I will represent Bob  
 18 Barnett and his partners in the Dallas group. I'm here  
 19 to give you a brief update on the status of Austin  
 20 Jockey Club and Dallas City Limits' transaction and the  
 21 progress that we've been making in the advancement of  
 22 establishing an Equine Development Center and  
 23 pari-mutuel riding facility in the Dallas area.  
 24 It's good to be back, by the way. It's  
 25 been a couple of years since I've been here. I

1 appreciate the opportunity. I've missed you guys.  
 2 A few comments about -- relative to Dallas  
 3 City Limits. These are basically sort of housekeeping  
 4 matters, but things that you need to know. We have  
 5 completed the transaction of the purchase of Longhorn  
 6 Downs, Inc. from the Austin Jockey Club subject to  
 7 Commission approval, which we'll be asking for at a  
 8 future date, hopefully very soon. But the last payment  
 9 was made back, I believe, on July the 31st to the Austin  
 10 Jockey Club. So all money's changed hands, the stock  
 11 has changed hands, and we'll be coming back to give you  
 12 details and give you approval of that transaction in the  
 13 very near future. Also I can tell you that Dallas City  
 14 Limits is in good standing with the offices of both  
 15 sectors, state and comptrollers. And we do not have any  
 16 legal actions or litigation pending against us at this  
 17 time.  
 18 I believe yesterday we furnished Charla  
 19 Ann and your staff with an updated current ownership  
 20 list which reflects ownership of Dallas Founders and  
 21 Trinity Crossing which owns Dallas City Limits. We've  
 22 been involved in some dealings, and there's been talk of  
 23 some movement of an ownership interest replacing  
 24 possibly one partner, but those things have been laid to  
 25 rest. We have the same ownership today that we had when

1 we furnished information to DPS some months ago. I  
 2 believe, in fact, that they have done a very complete, a  
 3 substantial amount of work on those background  
 4 investigations, and we'll be going to them also in the  
 5 very near future to let them know that we're ready to  
 6 proceed with that process in bring to finality.

7 Basically we've been very methodical in  
 8 the process. We've got a few members of our team here  
 9 today that will make some brief remarks, will be talking  
 10 a little bit about financing, a little bit about the  
 11 site, and a little bit about some detailed issues,  
 12 feasibility studies that we're conducting. If you've  
 13 got any questions of me, I can address those now, or if  
 14 you'd like to listen to remarks about it by our other  
 15 two guys, I can come back after they finish, and you can  
 16 address questions to me at that time if you so desire.

17 CHAIRMAN DYKE ROGERS: Why don't we hear  
 18 from everybody, and then if we have questions, we'll ask  
 19 them then.

20 MIKE BURLESON: At this time I'd like to  
 21 introduce Mr. Bill Beuck.

22 BILL BEUCK: Thank you. My name is Bill  
 23 Beuck. I represent Dallas City Limits. My task in the  
 24 company is primarily with development and development  
 25 planning. What we wanted to do and what we presented in

1 your packet that you have today is part of our process.  
 2 We've engaged a company called Economic Research  
 3 Associates, which is really one of the nation's best  
 4 feasibility groups that involves entertainment engaging  
 5 and other types of involvement feasibility research to  
 6 help us with the determination and factors that we would  
 7 need to bring to bear, and we'll subsequently come back  
 8 and present to the Commission.

9 The other thing that we've done is we've  
 10 engaged on an exclusive basis the Henry S. Miller  
 11 Companies to represent us in the financing of the  
 12 project in which we're involved as well as for all of  
 13 the land acquisitions. We do have a very professional  
 14 team working extensively on all the planning details, on  
 15 logistic details and finance and land. I would like to  
 16 introduce Mr. Vance Miller who is Chairman of the Board  
 17 of Henry S. Miller Companies. Again, we've engaged them  
 18 on an exclusive basis to represent us, and would like to  
 19 present Mr. Vance Miller, Chairman of the Board.

20 VANCE MILLER: Good afternoon, Chairman  
 21 and Commissioners. I'm Vance Miller, Chairman of Henry  
 22 S. Miller. We're a 92-year old real estate firm in  
 23 Texas, in Austin and throughout the state.

24 I've presented to you two letters, one  
 25 from our investment banking group, which is a very

1 experienced and capable, successful investor banking  
 2 team raising capital for entrepreneurs in real estate  
 3 developments. That letter first says that -- "Well, Van  
 4 told me," in this letter briefly. Their response has  
 5 been enthusiastic from the capital sources for this  
 6 project. So we expect to be a very competitive cost of  
 7 capital, and very eager to place the funds. So we're  
 8 delighted to have this assignment of representing  
 9 Mr. Barnett and his associates.

10 Secondly, there's a letter to head of our  
 11 land division, president of our land division, Ray  
 12 Ogelly, and he has had site acquisition. He is one of  
 13 the most experienced professionals in site acquisition  
 14 in the state, and he has located three major sites, all  
 15 of which meet the requirements that Mr. Barnett and  
 16 Associates have outlined. And we think they will be  
 17 warmly received in the locations that have been deemed  
 18 eligible. So with that I would be glad to answer any  
 19 questions from the Commissioners.

20 CHAIRMAN DYKE ROGERS: Do you have an  
 21 anticipated timetable when you'll actually will settle  
 22 on a site?

23 VANCE MILLER: That's Mr. Barnett's call.  
 24 He has hired the most professional research associates  
 25 to do what works. In other words, he is a very, very

1 creative person. And having his creativity checked with  
 2 a professional who can really advise what works and what  
 3 won't work, he's done that. And we're very confident  
 4 that -- what he's putting together will be very well  
 5 received, and it will be exciting for us. We're very  
 6 enthusiastic.

7 CHAIRMAN DYKE ROGERS: I think it will be,  
 8 but my question really was: Do you have some time  
 9 frame?

10 VANCE MILLER: Oh, the time frame, I  
 11 would -- hopefully, we would go to the market before the  
 12 end of this year with the research, Dallas, and all --  
 13 and the final design.

14 CHAIRMAN DYKE ROGERS: Okay.

15 MIKE BURLESON: Mr. Chairman, the  
 16 feasibility study that the firm is completing for us is  
 17 underway. It initially was a 90-day project. And we're  
 18 about -- I'm going to guess, three weeks into it. So  
 19 what we anticipate and what we hope for is that we'll be  
 20 able to enter into some kind of a definitive agreement  
 21 real estate acquisition around the first of October,  
 22 maybe a little bit before.

23 CHAIRMAN DYKE ROGERS: Okay. Thank you.  
 24 Any other questions?  
 25 Thank you all for the update.

1 Is there any other business other than  
 2 scheduling the next commission meeting? Okay, our next  
 3 meeting actually is scheduled, so we just need to  
 4 confirm this for the calendar. Friday, September 8th,  
 5 1:00 in the afternoon. That's a little different time  
 6 schedule, 1:00 p.m. And where it will be, we'll spin  
 7 the bottle and figure that out a little later. But  
 8 that's when it will be.

9 Anything else, Commissioner? Okay. We  
 10 stand adjourned.

11 (Proceedings adjourned at 12:44 p.m.)

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1 STATE OF TEXAS )  
 COUNTY OF TRAVIS )

2  
 3 I, MARLENE ERIVES, Certified Shorthand  
 4 Reporter, certify that the foregoing is a true and  
 5 correct transcription of the proceedings held on August  
 6 10, 2006.

7 I further certify that I am neither related to  
 8 nor employed by any of the parties in which this  
 9 proceeding was taken.

10 I further certify that the transcription fee of  
 11 \$640.00 was paid/will be paid in full by Texas Racing  
 12 Commission.

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16  
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18 \_\_\_\_\_ 8.30.06

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