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BEFORE THE  
TEXAS RACING COMMISSION  
AUSTIN, TEXAS

COMMISSION MEETING

AUGUST 8, 2007

Reported by: SHERRI SANTMAN FISHER

Job #9-64688

1 BE IT REMEMBERED that the above entitled matter  
2 came on for hearing on the 8th day of August, 2007,  
3 beginning at 10:30 A.M. at 2105 Kramer Lane, Austin,  
4 Travis County, Texas, and the following proceedings  
5 were reported by SHERRI SANTMAN FISHER, Certified  
6 Shorthand Reporter for the State of Texas.

7  
8  
9 APPEARANCES

10  
11 Commissioners: JESSE R. ADAMS  
12 TREVA J. BOYD  
13 G. KENT CARTER  
14 CHARLES L. "SONNY" SOWELL  
15 DAVID G. CABRALES  
16 RONALD F. EDERER  
17 JIMMY ARCHER  
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1 CHAIRMAN ADAMS: I'd like to call to  
2 order the meeting of the Texas Racing Commission and  
3 begin by having Mrs. Giberson call the roll, please.

4 MS. GIBERSON: Ernest Angelo? Treva  
5 Boyd?

6 COMMISSIONER BOYD: Here.

7 MS. GIBERSON: David Cabrales?

8 COMMISSIONER CABRALES: Here.

9 MS. GIBERSON: Dr. Kent Carter?

10 COMMISSIONER CARTER: Here.

11 MS. GIBERSON: Jimmy Archer?

12 MR. ARCHER: Here.

13 MS. GIBERSON: Ron Ederer?

14 COMMISSIONER EDERER: Here.

15 MS. GIBERSON: Dyke Rogers? Sonny  
16 Sowell?

17 COMMISSIONER SOWELL: Here.

18 MS. GIBERSON: Jesse Adams?

19 CHAIRMAN ADAMS: Here.

20 Before we go into the full agenda, I'd  
21 like to have you all welcome our newest Commissioner,  
22 Mr. Ronald Ederer, who is -- the Governor has just  
23 appointed to this Commission. And I'm going to give  
24 him a second to tell you a little bit about himself, if  
25 that's okay.

1 Ron, pleased to have you.

2 COMMISSIONER EDERER: Thank you.

3 My name is Ron Ederer. I live in Fair  
4 Oaks, Texas, outside of San Antonio. I practice law in  
5 San Antonio. I have, more or less, a law enforcement  
6 background besides just being a lawyer. I -- something  
7 you all would be interested in, I was a horseman in New  
8 Mexico for approximately eight years. I had horses on  
9 the track at Sunland Park when I lived in El Paso. I  
10 was in El Paso for 18 years prior to moving to San  
11 Antonio.

12 I moved to San Antonio. I was appointed  
13 United States Attorney by George Bush and served -- 1,  
14 George Bush 1, and served in that capacity until  
15 Mr. Clinton came on board and then, of course, I was  
16 fired, like all U.S. Attorneys get fired.

17 And I'm looking forward to this. Thank  
18 you.

19 CHAIRMAN ADAMS: Thank you, Ron.

20 The next item is public comment.

21 Ms. Giberson, Mr. Fenner, do we have anyone who has  
22 signed up?

23 MR. FENNER: Not for the public comment  
24 portion of the agenda, sir.

25 CHAIRMAN ADAMS: Okay. Thank you very

1 much.

2 We'll move on then to general business,  
3 discussion and consideration and possible action on the  
4 following matters: The first item is selection of a  
5 new vice-chair for this Commission.

6 COMMISSIONER BOYD: Mr. Chairman?

7 CHAIRMAN ADAMS: Yes.

8 COMMISSIONER BOYD: I'd like to nominate  
9 Dr. Carter as our new vice-chairman. I think that  
10 Dr. Carter would -- or sorry. I think Dr. Carter would  
11 lend great expertise in the area of drugs and -- for  
12 our animals.

13 COMMISSIONER SOWELL: Glad you added  
14 that.

15 COMMISSIONER BOYD: You know, in  
16 testifying before the Sunset Commission, I think the  
17 chairman and vice-chairman both would be more informed  
18 concerning that area. So I think that Dr. Carter is a  
19 good choice. He's an objective Commissioner. I think  
20 that he's participated and done an outstanding job in  
21 that part of the industry. So I would like to make  
22 that nomination.

23 CHAIRMAN ADAMS: Thank you very much.

24 It does not require a second, so we'll  
25 let the record reflect that Dr. Carter has been

1 nominated. Are there any other nominees for  
2 vice-chairman?

3 Hearing none, I'll have a vote based on  
4 affirmation of the one nominee that we have. All those  
5 in favor please say aye.

6 COMMISSIONERS: Aye.

7 CHAIRMAN ADAMS: Any opposed?

8 Okay. Congratulations then.

9 VICE-CHAIRMAN CARTER: Thank you. I was  
10 about to nominate somebody else.

11 CHAIRMAN ADAMS: Okay. No. 2, Item No. 2  
12 is budget and finance update.

13 Ms. Harris-Curtsinger, please, our chief  
14 financial officer.

15 MS. HARRIS-CURTSINGER: Good morning,  
16 Commissioners. The budget information in your packet  
17 is as of June 30th. As of this date, we are 83.33  
18 percent through the 2007 fiscal year. The agency's  
19 projections continue to hold true as we work to close  
20 this fiscal year.

21 In saying this, the agency has worked to  
22 keep our costs down and is currently seven percent  
23 under budget. With an effort to be conscientious and  
24 not overcollect from the industry, the agency has  
25 waived simulcast fees for the tracks from July the 9th

1 through August the 31st of 2007.

2           Moving forward, now that session is over,  
3 the agency is gearing up for the 2008-2009 biennium.  
4 The agency gained an audit FTE and got the 10 percent  
5 budget reduction back that we were required to include  
6 in our legislative appropriations request.

7           The Commissioners' travel allowance for  
8 in-state travel was raised from 3,000 to 6,000 and the  
9 out-of-state travel allowance was raised for the  
10 agency.

11           I'll be happy to answer any questions.

12           CHAIRMAN ADAMS: Any questions?

13           Thank you, ma'am.

14           MS. HARRIS-CURTSINGER: Thank you.

15           CHAIRMAN ADAMS: Next item, a report on  
16 racetrack inspections. Mr. Tom Neely, director of  
17 investigations.

18           MR. NEELY: Good morning, Commissioners.

19           As you can see in your packet, we've been  
20 pretty busy with inspections at the racetracks. The  
21 items that are outstanding for pari-mutuel at each one  
22 of those tracks is still related to the new  
23 cancellation rule. And we're waiting for the tracks to  
24 submit their plans to implement that rule, but they are  
25 actively doing that.

1           The other issues at the tracks that are  
2 listed under administrative are related to maintenance  
3 issues. Some of them are going to be long-term.  
4 Others that we're working with them to get done on a  
5 short term are being completed at this time.

6           Also the -- under the veterinary  
7 inspections at Houston and at Corpus, those are  
8 maintenance issues as well and the staff is working  
9 with the tracks to get those completed.

10           CHAIRMAN ADAMS: Any questions of  
11 Mr. Neely from the Commission?

12           VICE-CHAIRMAN CARTER: Expound on the  
13 maintenance issues, would you, please?

14           MR. NEELY: I can't tell you exactly what  
15 they were, but most of them were housekeeping. Some of  
16 them at the greyhound track related to the box that  
17 they start at. And Dr. Marsh is here if you'd like.

18           VICE-CHAIRMAN CARTER: Facilities  
19 maintenance.

20           MR. NEELY: Yes, sir, facility  
21 maintenance.

22           VICE-CHAIRMAN CARTER: Okay. Thank you.

23           CHAIRMAN ADAMS: Any other questions?  
24 Treva?

25           COMMISSIONER BOYD: Yes. And how are we

1 going to stay on top of these things to make sure that  
2 they are rectified?

3 MR. NEELY: The tracks are -- they're  
4 issued a letter by the director of each one of those  
5 divisions when we receive those reports and we give  
6 them a time line to respond to them. And when they  
7 fail to do that, then they're referred to the executive  
8 director for administrative purposes. But we do  
9 follow-up inspections and they will tell us when  
10 they're ready for another inspection and we'll go back  
11 out and reinspect.

12 COMMISSIONER BOYD: And we'll be doing  
13 some spot checks, too, I'm sure?

14 MR. NEELY: Yes, ma'am, we do random  
15 inspections as well.

16 COMMISSIONER BOYD: Unannounced?

17 MR. NEELY: Yes.

18 CHAIRMAN ADAMS: Any other questions for  
19 Mr. Neely?

20 Thank you, Mr. Neely.

21 Before I go on to the next item, we have  
22 some housekeeping and I'd like Ms. Boyd to come  
23 forward, please, for a presentation.

24 We actually have plaques for Dyke Rogers  
25 and Mike Rutherford and for Treva as well, but the

1 other two aren't here today so we're going to be  
2 forwarding those to them.

3 But this is for your many years of  
4 service to the Racing Commission. And they weren't  
5 available -- we apologize. They weren't available at  
6 the last meeting, but we have them now. Thank you very  
7 much. Appreciate it.

8 COMMISSIONER BOYD: Thank you. I'm like  
9 a bad penny.

10 CHAIRMAN ADAMS: Report and update by the  
11 executive director regarding administrative matters.  
12 Ms. Charla Ann King, please.

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

14 I can follow up with the plaque with  
15 something else also that I'd like to do at the start.  
16 You remember after the last meeting we rounded you up  
17 for the photograph. Remember we took a lot of shots?  
18 Well, we got a very good one. And so we have one of  
19 these for each of you to capture this particular  
20 Commission. And so we'll hand it around. But we have  
21 them here, correct, Gloria? And you can take it with  
22 you. I hope you've got a spot for it and enjoy it.

23 CHAIRMAN ADAMS: Thank you. Thank you  
24 very much.

25 COMMISSIONER SOWELL: Gorgeous. With

1 this group, that's about as good a picture as you're  
2 ever going to get.

3 MS. KING: Okay. The second item is I  
4 thank you for your quick responsiveness to the request  
5 from Gulf Greyhound, allowing us to approve the  
6 addition of Tuesday evening performances for August  
7 '07. They've gone forward with some special  
8 promotions and we wish them success in that effort.  
9 Sally was mentioning it today. So good luck with that,  
10 Gulf Greyhound.

11 The primary thing I want to speak about  
12 today is the update on House Bill 2701 by Flores and  
13 Lucio. You'll find a copy of the enrolled bill  
14 included in your materials behind Tab 3.

15 You'll recall that you approved a set of  
16 legislative recommendations at our December meeting.  
17 All of our proposed changes were made, with the  
18 exception of the item related to the stewards' and  
19 judges' employment which was unnecessary with the  
20 support we received for our budget, though there were a  
21 few amendments made to the bill also. Keep in mind the  
22 legislation goes into effect September 1st, 2007.

23 I'm going to go over the provisions  
24 briefly. The bill changed some definitions, including  
25 allowing the executive secretary to use the more

1 standard term "executive director". That was causing  
2 some confusion during this session also.

3           The legislation solved a problem in the  
4 greyhound testing program that was pointed out by the  
5 State auditor. The statute will now allow drug tests  
6 to be conducted prerace or post-race. It clarified the  
7 Commission's fee-setting authority and eliminated  
8 greyhound breakage as an agency funding source. It  
9 authorized additional fees for background checks. It  
10 adjusted the revolving-door limitation for former  
11 employees to one year instead of two. Pari-mutuel  
12 tickets and vouchers will expire 365 days after they  
13 are issued. And it removed some obsolete provisions  
14 that were just out of date, some general housekeeping.

15           Some amendments were added in the  
16 Senate. The amendments raised the limitation on the  
17 maximum number of tracks from two to three, resolved a  
18 potential TABC issues for the new owners of Laredo  
19 Downs and Valle de los Tesoros, added a requirement to  
20 perform updated background checks on racetrack owners  
21 and management at least every five years.

22           There was also an amendment that keeps  
23 the outstanding ticket revenue coming to the agency.  
24 This change, combined with the 365-day expiration date  
25 on all the tickets, is causing a wrinkle in the funding

1 process and we're working on that right now in  
2 conjunction with the work that we're doing on our fees  
3 for 2008. And we can talk a little bit more about that  
4 later.

5 But before I move on to the next item,  
6 does anybody have any questions about the legislative  
7 changes in House Bill 2701?

8 CHAIRMAN ADAMS: Charla Ann, I would like  
9 to commend you and the rest of the staff for batting a  
10 thousand here on those items that we had identified, as  
11 a Commission, that needed to be addressed as well as  
12 the staff recommendation. So I don't know that anybody  
13 else went to the Legislature this year and was -- could  
14 say that. So thank you very much.

15 MS. KING: I appreciate that,  
16 Mr. Chairman. And I appreciate the Commission being  
17 willing to go forward to do that back when you approved  
18 it. So we appreciated that. I think there's going to  
19 be a lot of benefit from it, including it was a good  
20 warm-up for sunset. So thank you.

21 Just a few more things. Staff is working  
22 on the proposed fee schedule for 2008. As Shelley  
23 mentioned, we've worked hard to conserve resources and  
24 we were able to waive simulcast fees for the remainder  
25 of fiscal year '07. We intend to bring the fee

1 schedule proposal to the next meeting, but we need to  
2 work on race dates at the same time that we're working  
3 on the fee projections in order to balance both so  
4 we're going to be gearing up for all of that.

5           With the pari-mutuel ticket expiration  
6 date change, the outstanding ticket revenue now is  
7 going to come in a little at a time. That's the  
8 difference. It used to come in in a lump sum. Now it  
9 will come in a little at a time and we're going to have  
10 to work with the racetracks on figuring out how to  
11 balance all of that. But Sammy Jackson is working with  
12 the racetracks on that.

13           At the next meeting we plan to bring you  
14 rule reviews for Chapter 309, which is racetrack  
15 licenses and operations, and Chapter 311, which is  
16 occupational licenses. And staff is working very  
17 hard. The senior management team is leading the  
18 efforts on those and we'll have something for you at  
19 the next meeting.

20           My last item is related to RCI. I  
21 recently attended an RCI board meeting. At that  
22 meeting we discussed a wide range of issues, including  
23 the upcoming annual RCI conference that will be held  
24 here in Austin in the spring. So I would like to give  
25 you those dates. March 25th to 28th. March 25th to

1 28th at the Driskill Hotel downtown.

2 I'm to cochair the program committee and  
3 so will have the opportunity to help shape the  
4 discussions that will take place. And that's very  
5 important to me, that we can kind of leave our mark on  
6 that conference by helping with the program. It's a  
7 good size conference and we're hoping for a big Texas  
8 welcome and therefore we're looking to participation  
9 from the Commissioners in that.

10 And I can contact each of you and find  
11 out your interests in participating. I think we're  
12 going to have the possibility of some increased  
13 participation from the veterinarian segment and so  
14 we'll be approaching Dr. Carter about that. It will be  
15 a great opportunity to develop further understanding of  
16 racing and regulation of racing from a nationwide  
17 perspective, so we're really looking forward to it.

18 With that, Commissioners, I close my  
19 administrative report unless I can answer some  
20 questions for you.

21 COMMISSIONER SOWELL: What's the typical  
22 attendance of that annual meeting?

23 MS. KING: I know they reserve over --  
24 about 200 rooms for their conference. But what we're  
25 hoping for in this case is that the industry will be

1 coming to the table in larger number now and so we're  
2 anticipating more than that. I'm forgetting the exact  
3 number. Jean, do you happen to know -- I can get that  
4 for you, unless -- Ken Peck might know, too, because  
5 they have combined their conference with our conference  
6 and we're hoping that we will get more interest from  
7 the industry than we have in the past.

8                   It's a growing conference. Since RCI  
9 combined with NAPRA, they're really getting their feet  
10 on the ground in developing a larger conference and I  
11 think that Texas will make a big difference in that.  
12 And they've never had the conference in Texas. It's  
13 never come to Texas. And so they're really looking  
14 forward to it. And we look to racetracks and the  
15 industry to come sit at the table, too, to hear what  
16 the regulators are talking about. It's very  
17 important.

18                   CHAIRMAN ADAMS: Any other questions for  
19 Charla Ann?

20                   COMMISSIONER BOYD: No, but I'd like to  
21 congratulate her and our industry for her probably  
22 being very influential in bringing that meeting to  
23 Texas. So I think it will be a great opportunity for  
24 us. Thank you, Charla Ann.

25                   CHAIRMAN ADAMS: Okay. Next item is

1 to -- the approval of a contract extension with our  
2 internal auditor. Mr. Fenner?

3 MR. FENNER: Commissioners, the Racing  
4 Commission is subject to the Texas Internal Auditing  
5 Act under Chapter 2102 of the Government Code. The  
6 purpose of the act was to assist agency administrators  
7 and governing boards by requiring an auditor to provide  
8 independent analysis and recommendations regarding  
9 internal control policies and procedures and the  
10 agency's quality performance. Agencies may either  
11 directly hire an internal auditor or they may contract  
12 out for that service.

13 The agency, with the Commission's  
14 approval, has previously determined that it's more  
15 cost-effective to contract out for these services.  
16 Plus it helps to preserve the auditor's independence in  
17 an agency as small as ours.

18 Monday Rufus has served as the internal  
19 auditor for a total of six years now. Three years ago,  
20 Chair Adams, Commissioner Boyd, Sammy Jackson, and  
21 Paula Flowerday worked together as a subcommittee to  
22 issue a request for proposal. After evaluating the  
23 responses, they recommended retaining Mr. Rufus. And  
24 the Commission approved a one-year contract that  
25 included two optional two-year renewals.

1           We have now completed that first year and  
2 the first renewal. Staff is asking for your approval  
3 to renew for the final two-year option.

4           CHAIRMAN ADAMS: Any questions of  
5 Mr. Fenner?

6           Is there any -- is there any comment from  
7 the industry?

8           If not, the Chair will entertain a motion  
9 to approve the renewal of the current internal  
10 auditor's contract for one additional two-year period.

11           COMMISSIONER BOYD: So move.

12           COMMISSIONER CABRALES: So move.

13           CHAIRMAN ADAMS: Moved by Commissioner  
14 Boyd and seconded by Commissioner Cabrales.

15           Any questions from the Commission? Any  
16 discussion?

17           All those in favor state aye.

18           COMMISSIONERS: Aye.

19           CHAIRMAN ADAMS: Any opposed?

20           The motion carries.

21           The next item, approval of a  
22 self-evaluation report, Texas Sunset Act, Chapter 325  
23 of the Texas Government Code, for submission to the  
24 Sunset Advisory Commission. Executive director Charla  
25 Ann King, please.

1 MS. KING: Thank you.

2 Mr. Chairman and members, you have before  
3 you a draft copy of our self-evaluation report. It's  
4 due to the Sunset Commission staff on August 24th.  
5 It's still a draft. We're still receiving input. I  
6 wanted to make sure that everybody had taken a close  
7 look at it. Working from the table of contents of  
8 that, if folks aren't familiar with this report, it's a  
9 very good resource on the functions of the agency.

10 We cover the key functions in  
11 performance, the history of the agency, and descriptive  
12 information about the Commission itself, about our  
13 funding, and a guide to the agency programs which  
14 should be helpful to everyone on the Commission and in  
15 the industry to get more detailed information about the  
16 way our programs work. And so from that perspective,  
17 this document will be helpful not only to the  
18 Legislature in understanding what we do but it will be  
19 helpful to all of us as well.

20 I would like to point to the section on  
21 policy issues, which begins on page 68. We identified  
22 six policy issues at this point to include in the draft  
23 report. I'd like to mention that these are policy  
24 issues that the sunset staff has asked us to identify  
25 that are on the landscape, not that we necessarily

1 advocate ourselves but have been a matter of discussion  
2 by the Commission or by the industry. So it doesn't  
3 necessarily represent that the Commission's advocating  
4 for these particular policy issues but is providing,  
5 hopefully, an objective description of those policy  
6 issues.

7 I'd like to read those policy issues for  
8 the benefit of the public who's here today. The first  
9 issue, should the Commission composition be changed to  
10 require a veterinarian member. No. 2, should the  
11 agency's method of finance be further modified. No. 3,  
12 should the accredited Texas-bred incentive program  
13 funds be removed from the agency's appropriations.

14 No. 4, should the allocation of revenue  
15 from a cross-species signal be realigned to make it  
16 more equitable to the racetrack and to the species of  
17 animal that participates in racing where the wager is  
18 made. No. 5, should the racetrack license process be  
19 modified to better address change of location,  
20 ownership, revocation, and transferability. And No. 6,  
21 should the Racing Act be amended to expressly prohibit  
22 illegal wagering on horse and greyhound racing.

23 Those are the six issues that we've  
24 identified so far. I know the members are taking a  
25 look at it. Some of you have sent back some

1 suggestions. So we're looking forward to that input.  
2 We will probably be visiting with the Governor's office  
3 also about the self-evaluation report. And so we're  
4 looking forward to wrapping this up and getting it  
5 submitted to the sunset staff by the 24th of this  
6 month.

7 Any questions?

8 CHAIRMAN ADAMS: Any questions?

9 COMMISSIONER CABRALES: Do you want  
10 comments on this now or will there be another  
11 opportunity --

12 MS. KING: There will be another  
13 opportunity.

14 COMMISSIONER CABRALES: -- in a later  
15 draft?

16 MS. KING: Only if you think it was  
17 important that we visit or if you want to get feedback  
18 from the others at this point. Otherwise we'll just  
19 take them and we'll add them to the report.

20 COMMISSIONER CABRALES: That's fine. I  
21 do want to say that this is a very thorough report and  
22 I think it shows a real degree of reflection by the  
23 staff in our operations and it is a very good resource  
24 for understanding what we do here and the level of work  
25 that goes into making this agency as effective as it

1 is. So I do commend the staff on the work that they've  
2 done so far.

3 MS. KING: Thank you very much. And I'd  
4 like to thank -- Jean Cook has led the effort on  
5 developing this report on a short time frame, so I'd  
6 like to thank Jean.

7 COMMISSIONER BOYD: I'd like to also say  
8 something. We've been talking about telling our story  
9 and you did a very good job telling our story, Jean and  
10 others that put this together. And I really appreciate  
11 that. You talk about also the impact on our industry  
12 having dollars going out of the State of Texas; and I  
13 think that's important for the Legislature to see as  
14 well, those -- the betting monies going out of the  
15 State of Texas. So I really appreciate the way you  
16 told our story. Thank you very much.

17 CHAIRMAN ADAMS: Any other discussion?

18 COMMISSIONER SOWELL: One question,  
19 please, Charla Ann.

20 MS. KING: Yes, sir.

21 COMMISSIONER SOWELL: There's a lot of  
22 material in here. There's potential for a lot of  
23 discussion. And my question is: Are we going to be  
24 able to handle this in a regular meeting or are we  
25 going to need additional time or do you know at this

1 point?

2 MS. KING: Since we need to submit the  
3 draft by the 24th, I would need to get all the feedback  
4 from you all and then try to identify whether we need  
5 to get some additional discussion. I can work with the  
6 Chair on doing that.

7 Now, if there's additional information --  
8 like if we feel comfortable with everything that's in  
9 the report, we can go forward with that. If there's  
10 additional things we want to add, we can do that when  
11 the sunset staff comes to the agency because they're  
12 going to want to visit with the Commissioners  
13 directly.

14 And so this is just the beginning. So  
15 this is a starting place for everyone and it kind of  
16 gives them the landscape of what this industry looks  
17 like.

18 So not to be concerned. If there's some  
19 additional issues, we can talk about them now and then  
20 we can decide do we want to add them here, how do we  
21 circulate them. We can circulate them to the other  
22 members and we're happy to do that and Jean is happy to  
23 help make that happen.

24 COMMISSIONER CABRALES: How do you want  
25 to handle something that may need to be removed or

1 maybe reworded before it gets submitted? Do you want  
2 to do that now or just in the -- when we provide our  
3 input to you, to the staff?

4 MS. KING: We're happy to talk about it  
5 now if you'd like to. That's not a problem.

6 CHAIRMAN ADAMS: Certainly.

7 COMMISSIONER CABRALES: Okay. On Issue  
8 No. 5, on page 74 of the report, we go into a  
9 discussion about inactive licensees posting bonds and  
10 Section 6.04(b) of the act itself. And we've got a  
11 sentence there that I don't necessarily agree with.  
12 And I certainly am not speaking for the entire  
13 Commission.

14 But in our report, we suggest that, on  
15 its face, that particular provision applies only to new  
16 licenses. I'm not sure that that necessarily reflects  
17 the view of the Commission, especially in light of the  
18 fact that I think we're working toward a rule that  
19 expands on that. And so I would recommend that that  
20 sentence be altered maybe to suggest that that --  
21 that's certainly one reading, but I'm not sure that  
22 that's the only reading and I'm not -- and I certainly  
23 don't think that would be the reading that this  
24 Commission would give to that provision. That would be  
25 my only remark to that.

1                   MR. FENNER: Commissioner, I think that  
2 your observations are well taken. I was responsible  
3 for writing Issue No. 5 and I did try to write it in  
4 such a way that would allow for the -- to recognize  
5 that the Commission has the authority to interpret it  
6 differently.

7                   COMMISSIONER CABRALES: Right.

8                   MR. FENNER: But I can certainly go in  
9 there and tweak that language to make it even more  
10 clear.

11                   COMMISSIONER CABRALES: Yeah. I just  
12 don't want there to be any confusion that somehow the  
13 Commission believes that that's the only reading that  
14 can be given to that provision. That would be my only  
15 comment.

16                   CHAIRMAN ADAMS: Additional questions?

17                   COMMISSIONER BOYD: And there's a table  
18 that we were going to work on that was blank. We were  
19 going to add --

20                   MS. KING: Yes, ma'am. We're going to  
21 add those performance measures. The standard  
22 performance measures weren't really working for that  
23 particular description; and so the staff was looking  
24 for other more descriptive performance measures for  
25 that particular section, I believe.

1                   CHAIRMAN ADAMS: Could you tell us  
2 anything about the makeup of the Sunset Commission?

3                   MS. KING: Good question. Is anybody  
4 from Sunset here?

5                   CHAIRMAN ADAMS: If not, you can get back  
6 to us.

7                   MS. KING: I can give you the general --  
8 I can't tell you all the members who are on it. And  
9 there will be some additional appointments made to the  
10 Sunset Commission. But half of them are from the  
11 Senate and half of them are from the House and they  
12 have a public member each that's appointed by the  
13 Lieutenant Governor and the Speaker.

14                   And they will have a House Chair this  
15 time around. They had a Senate Chair last time.  
16 Senator Brimer was the Chair last time. He remains on  
17 the Commission, but now they will pick a House Chair.  
18 But they don't make those appointments until September  
19 usually and so we'll hear -- we'll get the composition  
20 for you.

21                   One of the things that will happen after  
22 we hand in the self-evaluation report is they will  
23 issue to us a schedule of when we're going to come up  
24 for the review process. So the staff will schedule  
25 probably, say, a four-month period. They'll assign

1 staff. And they'll come out either early in the  
2 interim or later in the interim. They kind of stagger  
3 their reviews.

4                   And so we'll get the schedule and the  
5 latest composition and we'll have a background piece  
6 available to you. And we'll probably need to have some  
7 regular discussions on sunset with the members and you  
8 may want to identify which of the members of the  
9 Commission may want to spend more time on the sunset  
10 process to make sure that we've got as much engagement  
11 as you would like.

12                   CHAIRMAN ADAMS: And this would all take  
13 place during 2008. Or will there be actual -- would  
14 this four-month period fall in 2007?

15                   MS. KING: Actually it will start --  
16 they'll start their reviews in September and they'll  
17 run them all the way up to December before the new  
18 session starts January 1, '09. And they're trying  
19 to -- and once you kind of get started, you keep  
20 going. You have a staff report phase. Then the  
21 Commission makes decisions. Then they draft the  
22 legislation. So it kind of builds -- the process  
23 builds. And so once you get your foot in the water,  
24 then you're pretty much there until they pass the  
25 sunset bill to continue the agency.

1           So it will be just a matter of when it  
2 gets kicked off. And they'll have a lot of materials  
3 and items that we'll be able to help educate everybody  
4 on that process. And it's important that the industry  
5 educate themselves about the process because it's a  
6 very open process and people get to come and speak  
7 their piece. They ask for public testimony. They'll  
8 do meetings with the industry. You know, they'll talk  
9 to everybody to try to get as much feedback about the  
10 statutory changes that everyone is interested in.

11           CHAIRMAN ADAMS: And the sunset is  
12 triggered by --

13           MS. KING: There's a provision in our  
14 statute that says that the agency and the act -- the  
15 agency will be abolished September 1, '09, unless  
16 another piece of legislation is introduced and passed  
17 to continue the agency.

18           CHAIRMAN ADAMS: Okay. Very good.

19           So at this point the Chair will entertain  
20 a motion to authorize the chairman to approve the  
21 self-evaluation report after the suggestions and  
22 comments of the Commission have been incorporated.

23           COMMISSIONER SOWELL: So move.

24           VICE-CHAIRMAN CARTER: Second.

25           CHAIRMAN ADAMS: It's been moved and

1 seconded.

2 All those in favor?

3 COMMISSIONERS: Aye.

4 CHAIRMAN ADAMS: Any opposed?

5 The motion carries.

6 Thank you.

7 The next item is proceedings on  
8 racetracks, discussion, consideration, and possible  
9 action on the following matters: Request by Retama  
10 Partners for approval of a change of ownership.

11 Mr. Tom Neely? Yes, sir. Go ahead,  
12 Mr. Neely.

13 MR. NEELY: Commissioners, on July the --  
14 or April the 23rd, the Commission received a request  
15 from Retama Partners, Limited, to approve the transfer  
16 of ownership interests from the estate of Vaughan  
17 B. Meyer which included 10 interests. And these  
18 interests were to go to Beverly Vaughan Meyer Trust,  
19 five interests at .1245 ownership, and Catherine Meyer  
20 Lange Trust, five interest units at .1245 percent  
21 interest.

22 Additionally they requested a transfer of  
23 ownership interest from the estate of Alice K. Meyer,  
24 which totaled 40 interests, to Michael M. Reynolds at  
25 13.33 interest units or .3319 percent ownership. An

1 equal amount would go to CoYoTe Phoenix and also to FBO  
2 Katherine B. Reynolds.

3           The Commission did submit these requests  
4 to the Department of Public Safety for a background  
5 investigation and there was no information found that  
6 would preclude them from being eligible for ownership.  
7 That's under Tab 4.

8           CHAIRMAN ADAMS: Any questions of  
9 Mr. Neely?

10           Thank you, Mr. Neely.

11           I have no one signed up on this item, I  
12 don't believe. So I will -- a motion -- the Chair will  
13 entertain a motion to approve the Retama Partners  
14 requested change of ownership. If there's any  
15 discussion from the Commission.

16           COMMISSIONER SOWELL: So move.

17           VICE-CHAIRMAN CARTER: Second.

18           COMMISSIONER EDERER: Who is CoYoTe  
19 Phoenix?

20           MR. NEELY: It's a company that's owned  
21 by several individuals that were under this Alice  
22 K. Meyer interest.

23           CHAIRMAN ADAMS: A motion by Mr. Sowell,  
24 seconded by Ms. Boyd to approve the change of  
25 ownership.

1 All those in favor?

2 COMMISSIONERS: Aye.

3 CHAIRMAN ADAMS: Any opposed?

4 The motion carries.

5 The next item is a request by LRP Group,  
6 Limited, to approve a change of ownership.

7 Mr. Neely?

8 MR. NEELY: Commissioners, on -- we  
9 received a request from LRP Group, Limited, to  
10 entertain the inclusion of Mr. Tyler Graham as a  
11 less-than-five-percent owner. And the Commission did  
12 receive that request and also a fingerprint card.

13 These things were submitted to the  
14 Department of Public Safety for a background  
15 investigation. And on July the 30th we did receive a  
16 positive report from the Department of Public Safety  
17 for Mr. Graham. And we recommend approval for his  
18 participation in LRP Group at less than five percent.

19 MR. FENNER: Commissioners, this also  
20 includes kind of a resetting of the proportionate  
21 interests of each of the owners or partners in LRP  
22 Group from the initial application. During the initial  
23 application process I believe there were some cash  
24 calls; and so as part of that process, they've kind of  
25 had to establish a new stake in the ground as -- at the

1 beginning of that LRP license as to what proportionate  
2 interests are. That letter from Bill Moltz's law firm  
3 kind of sets out what those portions are.

4 MR. NEELY: There's an attachment  
5 included in your packet that identifies those ownership  
6 interests.

7 CHAIRMAN ADAMS: Mr. Moltz has signed up  
8 to speak. So, Mr. Moltz, would you like to address the  
9 Commission?

10 MR. MOLTZ: Mr. Chairman, Commissioners,  
11 for the record, my name is Bill Moltz, here on behalf  
12 of LRP.

13 I believe the letter in the -- in your  
14 packet pretty well describes what we're requesting and  
15 there's various tables that line out what it was and  
16 what the percentages were requested to be. And this  
17 is -- with the exception of Mr. Graham, who has a small  
18 interest coming into it, this is really just, as  
19 Mr. Fenner stated, kind of a re-jockeying around. When  
20 the application was filed, it's been at least two years  
21 ago; and throughout the proceeding, cash calls would be  
22 made; and this just sort of straightens all that out.  
23 We were waiting until this point to do this.

24 And if there's any questions, I'd be  
25 happy to answer them.

1 CHAIRMAN ADAMS: Any questions of  
2 Mr. Moltz?

3 I hear none, Mr. Moltz. Thank you, sir.  
4 Anyone else to speak on this issue?

5 The Chair will entertain a motion to  
6 approve LRP Group's request for change of ownership.

7 COMMISSIONER CABRALES: So move.

8 COMMISSIONER SOWELL: Second.

9 CHAIRMAN ADAMS: It's been moved by  
10 Mr. Cabrales and seconded by Mr. Sowell.

11 All those in favor say aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN ADAMS: Any opposed?

14 The motion carries.

15 The next item is a request by Valle de  
16 los Tesoros, Limited, for approval of change of  
17 ownership. Mr. Neely?

18 MR. NEELY: Commissioners, this again is  
19 the approval of ownership percentages for licensee  
20 Valle de los Tesoros, Limited, which is the Hidalgo  
21 County track that was issued. And this is -- the  
22 percentage ownerships under their ownership needs to be  
23 adjusted somewhat, primarily to also reflect the  
24 capital calls that were made by that partnership. And  
25 again, there's attachments in your packet that shows

1 the new ownership alignments. And Mr. Moltz is here to  
2 speak on that as well.

3 CHAIRMAN ADAMS: Anyone -- any  
4 questions?

5 Mr. Moltz? Okay, sir. It's not  
6 necessary, unless you want to address the Commission.

7 MR. MOLTZ: I won't take a whole lot of  
8 your time. It's basically the same as with LRP except  
9 in this one we do not have a new owner. And we can  
10 answer questions if you have any.

11 CHAIRMAN ADAMS: Thank you, sir.

12 Any questions?

13 The Chair will entertain a motion to  
14 approve the Valle de los Tesoros requested change in  
15 ownership.

16 COMMISSIONER CABRALES: So move.

17 COMMISSIONER SOWELL: Second.

18 CHAIRMAN ADAMS: It's been moved by  
19 Mr. Cabrales and seconded by Mr. Sowell.

20 All those in favor please say aye.

21 COMMISSIONERS: Aye.

22 CHAIRMAN ADAMS: Any opposed?

23 The motion carries.

24 The next item is a request by Corpus  
25 Christi Greyhound Track Associates for approval of

1 change of board of directors. Mr. Neely?

2 MR. NEELY: Commissioners, on April the  
3 19th the Commission received a written request from  
4 Corpus Christi Greyhound Racing Associates to approve a  
5 change in the board of directors and management  
6 committee. This would be an inclusion of Ms. Barbara  
7 Havernick to vice-chairman of the management  
8 committee.

9 New background disclosure forms were also  
10 submitted to the Department of Public Safety for  
11 investigation. And on June the 1st we did receive a  
12 positive report from the Department of Public Safety.  
13 And the Commission recommends the approval of the  
14 change.

15 CHAIRMAN ADAMS: Any questions of  
16 Mr. Neely?

17 Thank you, Mr. Neely.

18 Do we have anyone who would like to speak  
19 on this issue?

20 Okay. Seeing no one, I'll entertain a  
21 motion to approve Corpus Christi.

22 COMMISSIONER SOWELL: So move.

23 COMMISSIONER EDERER: Second.

24 CHAIRMAN ADAMS: Moved by Mr. Sowell,  
25 seconded by Mr. Cabrales.

1 All those in favor state aye.

2 COMMISSIONERS: Aye.

3 CHAIRMAN ADAMS: Any opposed?

4 The motion carries.

5 Thank you, Mr. Neely.

6 There's a request by Gulf Greyhound for  
7 approval of the amendment to their tote contract with  
8 United Tote. Mr. Fenner?

9 MR. FENNER: Commissioners, this is a  
10 fairly simple tote contract amendment that staff has  
11 reviewed and found to be acceptable. The cover page is  
12 behind Tab 8. The amendment itself is behind the  
13 confidential portion of your materials, Confidential  
14 Tab No. 1. Carol Olewin from our staff is available to  
15 answer any questions you may have, as well as  
16 representatives of United Tote. Staff recommends  
17 approval.

18 CHAIRMAN ADAMS: Any questions for  
19 Mr. Fenner?

20 Ms. Olewin, would you like to address the  
21 Commission? Carol? Is it not necessary?

22 MS. OLEWIN: Carol Olewin, Texas Racing  
23 Commission.

24 I have reviewed -- we have a plan and we  
25 requested information from United Tote. I have

1 reviewed all the documents that they've provided,  
2 including licensing information on employees,  
3 schematics of the facilities, backup plans. And I have  
4 found everything to be satisfactory.

5 CHAIRMAN ADAMS: Thank you, ma'am.

6 The Chair would then recognize -- would  
7 entertain a motion to approve the amendment to the  
8 totalisator contract between Gulf Greyhound and United  
9 Tote.

10 COMMISSIONER BOYD: So move.

11 COMMISSIONER SOWELL: So move.

12 COMMISSIONER BOYD: Second.

13 CHAIRMAN ADAMS: It's been moved and  
14 seconded.

15 All those in favor state aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN ADAMS: Any opposed?

18 The motion carries.

19 Item F, a request by Corpus Christi  
20 Greyhound Racing Associates to modify its 2007 live  
21 racing schedule.

22 MR. TRIPLETT: Commissioners, I'm Jacques  
23 Triplett, a member of the management staff for Corpus  
24 Christi Greyhound Racetrack. And we're requesting at  
25 this time to modify our 2007 race dates just due to a

1 lack of racing animals.

2           When we put in our dates, we had 11  
3 kennels under contract. Since then we have lost two of  
4 them. We don't hold them to it if -- to the end of the  
5 contract. If they wish to vacate the contract, we let  
6 them out of it. But with only nine kennels, we can't  
7 do all of the abbreviated performances that we want to  
8 do. We can still do the regular performances, just not  
9 the extra performances through the end of the year.

10           Barring any unforeseen happenings in the  
11 future, we still have nine of them with us. The two  
12 kennels we lost, one was lucky enough to get a booking  
13 at Gulf Greyhound track; so he resigned his booking  
14 with us. The other one just literally went out of the  
15 greyhound business. They were cattle folks and  
16 greyhound racing was an aside to them, so they decided  
17 they could do better with the cattle.

18           CHAIRMAN ADAMS: Questions of  
19 Mr. Triplett?

20           COMMISSIONER CABRALES: Mr. Triplett,  
21 thank you for coming down today. Help me understand  
22 when the abbreviated races were occurring relative to  
23 your regular race schedule.

24           MR. TRIPLETT: Yes, sir. Such as a  
25 Wednesday matinee, we would run the regular 12 races

1 and then four extra races. As you know, you cannot run  
2 14 races in a performance; but you can run two  
3 performances; and the abbreviated races were an extra  
4 four races. So there were actually 16, 17 races that  
5 day, whereas it will cut back to 12. They were on  
6 Wednesday, Sunday, and Saturday, I believe.

7 CHAIRMAN ADAMS: Any other questions for  
8 Mr. Triplett?

9 Thank you, Mr. Triplett.

10 MR. TRIPLETT: Thank you, sir.

11 COMMISSIONER SOWELL: Move the approval.

12 CHAIRMAN ADAMS: I have another  
13 individual signed up.

14 COMMISSIONER SOWELL: Okay.

15 CHAIRMAN ADAMS: Ms. Whiteley has signed  
16 to speak.

17 MS. WHITELEY: I'm Diane Whiteley, Texas  
18 Greyhound Association. Congratulations to the new  
19 chairman and vice-chairman. And welcome,  
20 Commissioner.

21 There has been several over the past --  
22 since I started in 2004, over the past three years,  
23 changes to schedules; and typically about every one is  
24 shortage of greyhounds. So I'd kind of like to clarify  
25 that a little bit, if I could. And I'm not going to

1 contest that there is a shortage of greyhounds at  
2 Corpus Christi. I have not seen their active list, but  
3 I'm relying on what they're telling me is that they are  
4 short to run the performances that they wanted.

5           These abbreviated performances were added  
6 last year, and that was a total of eight races on  
7 Sunday and Wednesdays. And those eight races were --  
8 we did not object to them at that time because they  
9 were replacing their canceling a Friday afternoon  
10 performance, 12 races. So in effect, we lost 12 last  
11 year, picked up eight with the abbreviated. So that's  
12 how the abbreviated came to be. So in effect, we have  
13 lost those abbreviated races, but we also lost Friday  
14 matinees from last year.

15           And a year ago I stood in front of the  
16 Commission and advised them of a shortage of greyhounds  
17 looming at the horizon at the end of 2007 and the start  
18 of 2008 and just brought it to your attention as well  
19 as the track's attention is that this is going to be  
20 happening, so be prepared for it, be ready for it, and  
21 see what we can do to anticipate it.

22           I understand that they have lost two  
23 kennels and I know each kennel owner and I understand  
24 the circumstances behind it. So they are down to nine  
25 kennel owners. The kennel contracts, as I recall, have

1 40 -- require 40 active greyhounds in each kennel; so  
2 if you have nine kennels down there at 40, that will  
3 put you at 360 active greyhounds, assuming everybody is  
4 at 40, which is in their contract. And even at 360,  
5 that would be too few, and I understand that, to run  
6 the performances that they want.

7           But they also asked last year to increase  
8 the number of crates in each kennel from 60 to 72,  
9 which was granted permission by the Commission to do  
10 that, because the argument was that they have those  
11 greyhounds available. So it makes you kind of wonder  
12 where -- you know, what the management is of the kennel  
13 owners as far as saying we have lots of dogs coming in  
14 but yet there's not enough active dogs to fulfill a  
15 program.

16           So these are just thoughts that go  
17 through my mind when I hear of shortages of greyhounds  
18 and things that we can do to resolve it.

19           We have another race dates meeting coming  
20 up and there's some issues that we would like to  
21 discuss as part of this because we don't like to see  
22 performances canceled at all. You know, we raise -- we  
23 represent the owners and breeders of greyhounds and  
24 we're out there constantly trying to assist our owners  
25 and breeders to place their greyhounds. So to find out

1 that there's not enough out there is very puzzling to  
2 us.

3           And at the race dates meeting, we would  
4 like to discuss such things as the requirement of  
5 active greyhounds on each kennel contract and how this  
6 is enforced with the kennels, the tracks' and the TGA's  
7 role in attracting new kennels to book. I'd like -- I  
8 would like to know what Corpus' efforts have been to  
9 replace the two kennels that left for the remainder of  
10 the year.

11           Another issue that's been brought to my  
12 attention by some of the kennel owners, which I told  
13 them to take to Corpus management, was that they have  
14 implemented apparently a five-day rule to get greyhound  
15 papers in the racing office to get them active. And I  
16 just have fielded a few complaints back and told them  
17 to take it up with the racing secretary, that the  
18 papers weren't getting turned -- the papers are getting  
19 turned in, but the dogs weren't getting on an active  
20 list quick enough, to the point where those dogs could  
21 run within their 10-day rule before they had to  
22 reschool and now they have another schooling and  
23 another lag before they can become active.

24           So I think there's some administrative  
25 things that possibly could be done in the racing office

1 to make sure that when a dog is ready to run that it  
2 can get on. So I think there's some administrative  
3 issues.

4           So while I -- like I said, I'm not going  
5 to contest that there is a shortage of greyhounds right  
6 now at Corpus Christi to do their current program. I  
7 would like to delve a little bit deeper, and perhaps in  
8 our races dates meeting we can do that, to find out why  
9 there is a shortage of greyhounds when, from what I  
10 gather from our owners and breeders out there, is they  
11 have lots of dogs to send down there.

12           And I'm open for any questions.

13           CHAIRMAN ADAMS: Any questions for  
14 Ms. Whiteley?

15           Ms. Whiteley, I'd just like to thank you  
16 for your comments and personally ask the staff to make  
17 note of her concerns and comments and see if we can't  
18 help in fixing some of these situations.

19           MS. WHITELEY: The Texas-bred is -- 70 to  
20 75 percent of the greyhounds racing at Corpus and Gulf  
21 are Texas-bred, so this is a Texas-bred issue.

22           And I had a note. I meant to thank Gulf  
23 for adding Tuesday. So maybe there will be some  
24 trade-offs for us there.

25           CHAIRMAN ADAMS: Thank you, ma'am.

1 MS. WHITELEY: Thank you.

2 CHAIRMAN ADAMS: Any other comments from  
3 the industry?

4 Commissioners, any questions?

5 I will recognize a motion here then to  
6 approve Corpus Christi's request for modification of  
7 their 2007 live racing schedule.

8 COMMISSIONER SOWELL: So move.

9 COMMISSIONER BOYD: Second.

10 CHAIRMAN ADAMS: Moved by Mr. Sowell,  
11 seconded by Ms. Boyd.

12 All those in favor please state aye.

13 COMMISSIONERS: Aye.

14 CHAIRMAN ADAMS: Any opposed?

15 The motion carries.

16 The next item has been withdrawn from the  
17 agenda, Item G.

18 We'll go on to the allocation by the  
19 Texas Greyhound Association of interstate cross-species  
20 purse monies. Ms. Whiteley of the Texas Greyhound  
21 Association?

22 MS. WHITELEY: The interstate  
23 cross-species simulcast purses, these are the greyhound  
24 signals that are going to the horse racetracks. These  
25 are the out-of-state greyhound signals going into the

1 horse track simulcasts. And then the TGA splits this  
2 money on a formula to the three greyhound tracks. And  
3 the formula has stayed the same the last couple of  
4 years.

5                   We do take out an administrative fee.  
6 Our administrative fee, which we are allowed under the  
7 rules to 20 percent, which we did raise it to 20  
8 percent, we intend to go back to 15 percent. And I  
9 would -- we've got some budgetary concerns, but we plan  
10 on going back to that, I would think, within the next  
11 six months.

12                   But in light of we don't have any firm  
13 race dates for our greyhound tracks for 2008 yet, it's  
14 difficult for us to make any changes on different  
15 possibilities. So we're just requesting that it remain  
16 the same until we have some definitive answers of what  
17 the 2008 race dates will be.

18                   CHAIRMAN ADAMS: Questions for  
19 Ms. Whiteley?

20                   Hearing none, thank you, ma'am.

21                   MS. WHITELEY: Thank you.

22                   CHAIRMAN ADAMS: Any representatives from  
23 the greyhound industry that would like to speak? I  
24 have no cards.

25                   If not, I would recognize Mr. Jackson,

1 Sammy Jackson.

2 MR. JACKSON: Thank you, Mr. Chairman.

3 Staff agrees with Ms. Whiteley's comments  
4 and would support approving this allocation formula to  
5 the next Commission meeting because we do intend to  
6 have race date presentations at the next Commission  
7 meeting. We know there's another working group  
8 scheduled. Already we're working on that, have been.

9 So we think continuation of that formula  
10 as it is now to the next Commission meeting would be  
11 the best opportunity for everybody. It locks in the  
12 purse money being paid out weekly. And no one would be  
13 affected negatively by it.

14 CHAIRMAN ADAMS: So this will take  
15 Commission action, Mr. Fenner, to continue it as  
16 Mr. Jackson is suggesting?

17 MR. FENNER: I'd recommend that you go  
18 ahead and do that, sir.

19 CHAIRMAN ADAMS: Okay.

20 MR. FENNER: However, I do want to  
21 clarify one thing. Mr. Jackson is making a  
22 recommendation to continue the allocation until the  
23 next Commission meeting. The request in the letter is  
24 to continue through the Valley Race Park's 2007-2008  
25 meet, reserving the right to come up and ask for a

1 change in the interim.

2           So I think that staff would then  
3 recommend a motion to continue the current allocation  
4 of interstate cross-species purse money until the next  
5 Commission meet -- to the meeting.

6           CHAIRMAN ADAMS: Until the next  
7 Commission meeting. Okay.

8           MR. JACKSON: Mr. Chair, if I may  
9 clarify. This is what we had done at the previous  
10 Commission meeting. At that point their allocation  
11 formula had expired and we approved it until this  
12 Commission meeting, thinking that we were going to be  
13 ready for the race date issue. But that fell through  
14 with some problems that occurred.

15           So we're asking to do that just one -- to  
16 the next Commission meeting because we know that we  
17 have to have the race dates here at that time. And I  
18 did talk to Ms. Whiteley about this. And she can stand  
19 up and nod her head yes or no. But I think we are in  
20 agreement on that, right, Diane?

21           MS. WHITELEY: Yes.

22           CHAIRMAN ADAMS: Okay. Very good.

23           Any other questions from the Commission?

24           Okay. Then the Chair will recognize a  
25 motion to continue the current allocation of interstate

1 cross-species purse monies until the next Commission  
2 meeting, recognizing that the TGA may ask the  
3 Commission to approve changes before that time as  
4 necessary.

5 COMMISSIONER CABRALES: So move.

6 COMMISSIONER SOWELL: Second.

7 CHAIRMAN ADAMS: Moved and seconded.

8 All those in favor?

9 COMMISSIONERS: Aye.

10 CHAIRMAN ADAMS: Any opposed?

11 The motion carries.

12 Thank you, Mr. Jackson.

13 MR. JACKSON: Thank you.

14 CHAIRMAN ADAMS: The next item,  
15 application by Laredo Race Park for a Class 2 horse  
16 racetrack license in Webb County. Mr. Fenner?

17 MR. FENNER: Commissioners, this is the  
18 application for a license that was contingent upon  
19 Maxxam's successful sale of Valley Race Park. In the  
20 just completed legislative session, the Legislature  
21 changed the Racing Act, effective September 1, 2007, to  
22 allow a person to hold a five or more percent interest  
23 in up to three racetracks, where the law previously  
24 only allowed them to hold that percentage interest in  
25 two tracks.

1                   With that change in the law, Maxxam has  
2 now withdrawn its request for approval of the Valley  
3 sale and asked that that license be granted effective  
4 September 1. This decision would be consistent with  
5 the proposal for decision by the State Office of  
6 Administrative Hearings. Staff recommends approval.  
7 And Mr. Bork and Sam Houston's attorneys are also  
8 available to answer any questions.

9                   CHAIRMAN ADAMS: Mr. Bork, would you like  
10 to address the Commission, sir?

11                   MR. BORK: Good morning, Commissioners.  
12 I'm here representing Laredo Race Park today.

13                   I think the documents that Mark has  
14 included in the agenda are pretty thorough and complete  
15 and everything, but I'm certainly willing to answer any  
16 questions that may come up or be that as it is.

17                   CHAIRMAN ADAMS: Are there any questions  
18 of Mr. Bork of the Commission?

19                   Not at this time, but we may -- we may  
20 generate some for you, Mr. Bork, before it's over with  
21 here.

22                   MR. BORK: I won't go too far then.

23                   CHAIRMAN ADAMS: Those individuals signed  
24 in to speak -- Mr. Friedman? Am I pronouncing that  
25 correct?

1 MR. FRIEDMAN: I don't have anything,  
2 Mr. Chairman.

3 CHAIRMAN ADAMS: Thank you, sir.  
4 And Griffiths?

5 MS. GRIFFITHS: We're just available if  
6 you have questions.

7 CHAIRMAN ADAMS: Thank you very much.  
8 Discussion, questions here among the  
9 Commissioners?

10 Anyone else in the industry that would  
11 like to address this issue?

12 Okay. The Chair would recommend -- would  
13 entertain a motion to approve the order for security  
14 for the compliance for Laredo racetrack.

15 MR. FENNER: I'm sorry. Chairman?

16 CHAIRMAN ADAMS: I jumped ahead here. To  
17 approve the findings of fact and conclusions of law and  
18 order granting the Class 2 racetrack license to Laredo  
19 Race Park.

20 COMMISSIONER SOWELL: So move.

21 CHAIRMAN ADAMS: Do I have a second?

22 VICE-CHAIRMAN CARTER: Can I ask a  
23 question? Is it okay to ask a question of Mr. Fenner?

24 CHAIRMAN ADAMS: Certainly.

25 MR. FENNER: Yes, sir.

1                   VICE-CHAIRMAN CARTER: A legal issue  
2 here. Is it -- it seems like we're kind of being  
3 proactive. We're okaying it when the law changes. But  
4 it seems like we should okay it after the law changes.

5                   MR. FENNER: Well, that is within your  
6 power to do. We're just trying to go ahead and be  
7 proactive and take care of this, this license.

8                   VICE-CHAIRMAN CARTER: And it's legal to  
9 do it that way.

10                  MR. FENNER: Yes, sir. The granting of  
11 the license becomes effective on September 1.

12                  VICE-CHAIRMAN CARTER: When the law  
13 changes.

14                  MR. FENNER: Yes, sir, even though the  
15 order is signed today.

16                  VICE-CHAIRMAN CARTER: Okay.

17                  COMMISSIONER SOWELL: So not to do it  
18 would put us in a hiatus until we meet again, right?

19                  MR. FENNER: Yes, sir.

20                  CHAIRMAN ADAMS: It would set back the  
21 applicant from that time, from September 1, until  
22 whenever we choose to meet the next time. And they do  
23 have a timetable that's part of the agreement.

24                                So I'm waiting for a second.

25                  COMMISSIONER CABRALES: I'll second.

1                   COMMISSIONER EDERER: To postpone it  
2 would foul up the timetable.

3                   CHAIRMAN ADAMS: What does that mean?  
4 Excuse me?

5                   COMMISSIONER EDERER: I said to postpone  
6 it would be to foul up the timetable.

7                   CHAIRMAN ADAMS: Well, it would just  
8 restrict the timetable. I don't know legally if it  
9 would make any difference at all, but it would change  
10 the timetable that they're under to be up and  
11 operating, which staff has negotiated and come to an  
12 agreement with them on that.

13                   Okay. I have a motion and a second. Any  
14 discussion on this issue before we vote?

15                   All those in favor please say aye.

16                   COMMISSIONERS: Aye.

17                   CHAIRMAN ADAMS: Any opposed?

18                   The motion carries.

19                   Thank you, Mr. Bork.

20                   The next item, approval of security bond  
21 for Laredo Race Park. Mr. Fenner?

22                   MR. FENNER: Okay. As you approved for  
23 the two previous racetrack licensees, which were Laredo  
24 Downs and Valle de los Tesoros, the staff would like to  
25 require Laredo Race Park to put up security to ensure

1 that it follows the act and the rules and that it  
2 builds and completes its racing facility.

3           This order that's in your materials will  
4 require Laredo Race Park to put up \$140,000 in  
5 security. The terms of the order are identical to  
6 those of the other two prior licensees, with the  
7 exception that the start dates have been adjusted a few  
8 months to account for the delay in licensure and their  
9 facility is a larger, more complex structure.

10           Therefore, Laredo Race Park will have to  
11 begin simulcasting by July 15th, 2009. They must be  
12 race-ready by December 2009. And they must submit a  
13 request for live race dates by July 1, 2008.

14           The staff recommends approval. Mr. Bork  
15 is still available to answer questions.

16           CHAIRMAN ADAMS: Mr. Bork, would you like  
17 to address the Commission?

18           MR. BORK: Again, I'm willing to answer  
19 some questions; but we're in agreement with the terms  
20 of the order as written.

21           CHAIRMAN ADAMS: Any questions from the  
22 Commissioners?

23           I have no one signed up to speak  
24 additionally on the issue. With that in mind, I  
25 will -- the Chair will accept a motion to approve the

1 order for security for compliance for Laredo Race  
2 Park.

3 COMMISSIONER SOWELL: So move.

4 COMMISSIONER BOYD: So moved.

5 CHAIRMAN ADAMS: Moved and second.

6 All those in favor please state aye.

7 COMMISSIONERS: Aye.

8 CHAIRMAN ADAMS: Any opposed?

9 The motion carries.

10 The next agenda item is proceedings on  
11 rulemaking, discussion, consideration, and possible  
12 action on the following rules: Adoptions of amendment  
13 to 309.6, security for compliance. Mr. Fenner?

14 MR. FENNER: Commissioners, this proposed  
15 rule was published in the June 22nd, 2007 issue of the  
16 Texas Register. We received one comment from Sam  
17 Houston Race Park, and their letter is enclosed in the  
18 materials on page -- on Tab 14.

19 The first suggestion by Sam Houston Race  
20 Park was to give the executive director additional  
21 flexibility in determining what data to use when  
22 estimating security requirements. The second  
23 suggestion was to substitute the force majeure language  
24 used in the recently issued orders for the force  
25 majeure language that's in the rule.

1                   Staff agrees in part to the first  
2 suggestion and agrees fully with the second  
3 suggestion. The proposed rule in your packet reflects  
4 these changes. They're marked in red lettering. They  
5 are on lines 33 through 36 on page 14-1, lines 16-18 on  
6 page 14-2, and lines 13 through 24 and 31 through 42 on  
7 pages -- on page 14-3.

8                   The staff recommends adoption of these  
9 rules -- or this rule as modified and as contained in  
10 your packet. If you have any questions, I'd be happy  
11 to answer them.

12                   CHAIRMAN ADAMS: Yes, Ms. Boyd.

13                   COMMISSIONER BOYD: Mark, I noticed that  
14 the comment that we received struck "only" totally out  
15 of (f) and (g).

16                   MR. FENNER: Yes.

17                   COMMISSIONER BOYD: I disagree with  
18 that. I agree with staff. "Only" needs to remain in  
19 there. If you put "may only be allowed" instead of  
20 "may be allowed only," does it change the meaning?

21                   MR. FENNER: You're talking about the  
22 force majeure language, Commissioner?

23                   COMMISSIONER BOYD: Yes, "may only be".  
24 If we move "only" from "allowed only if" to "may only  
25 be allowed if" --

1 MR. FENNER: Let's see. I'm trying to  
2 parse this.

3 COMMISSIONER BOYD: Okay. On line 13 --

4 MR. FENNER: Yes.

5 COMMISSIONER BOYD: -- of page 14-3,  
6 "exceptions to this requirement may be allowed only  
7 if". If we move "only" back to where it reads a little  
8 easier to "requirements may only be allowed if" --

9 MR. FENNER: "May only be allowed if the  
10 delay"?

11 COMMISSIONER BOYD: Yes.

12 MR. FENNER: "May be allowed only if the  
13 delay"? I'm not reading much difference between the  
14 two.

15 COMMISSIONER BOYD: It reads a little bit  
16 better, but it doesn't change the meaning.

17 MR. FENNER: Not to me.

18 COMMISSIONER BOYD: And I didn't know if  
19 that's why they struck it or not, one of the reasons  
20 why they struck it out.

21 MR. FENNER: I don't believe that they  
22 were -- I believe --

23 COMMISSIONER BOYD: I know there's  
24 another reason they were striking it, but --

25 MR. FENNER: They were trying to move the

1 other force majeure language from the orders in. I  
2 believe that's the only purpose in that change.

3 COMMISSIONER BOYD: Okay.

4 CHAIRMAN ADAMS: Well, I would like to  
5 thank Sam Houston for intervening and helping us  
6 because we are always asking for that kind of input and  
7 we don't often get it as often as we'd like to. So  
8 thank you for that.

9 COMMISSIONER CABRALES: I've got one  
10 question of Mr. Fenner.

11 CHAIRMAN ADAMS: Yes.

12 COMMISSIONER CABRALES: Are there other  
13 places in our rule where we have the old force majeure  
14 language? And if so, we may need to give some thought  
15 to harmonizing our rules so that we've got the  
16 consistent force majeure language throughout.

17 Otherwise lawyers can always find reasons for why that  
18 language ought to be read differently than this  
19 language if you've got two different sets of clauses.

20 MR. FENNER: I am not aware of any other  
21 use of force majeure language in the rules.

22 COMMISSIONER CABRALES: That's fine.

23 CHAIRMAN ADAMS: Okay. Anyone else to  
24 speak on this issue?

25 If not, the Chair would accept a motion

1 to adopt the proposed amendment to Rule 309.6 with the  
2 discussed changes published -- that were published in  
3 the Texas Register.

4 COMMISSIONER BOYD: So move.

5 COMMISSIONER SOWELL: So move.

6 CHAIRMAN ADAMS: Moved and seconded.

7 All those in favor say aye.

8 COMMISSIONERS: Aye.

9 CHAIRMAN ADAMS: Any opposed?

10 The motion carries.

11 Adoption of amendment to 303.41,  
12 allocation of race dates. Mr. Fenner?

13 MR. FENNER: Commissioners, this proposal  
14 was published in the June 22nd, 2007 issue of the Texas  
15 Register. We've received no comments in response to  
16 that proposal, and therefore staff recommends adoption  
17 as it is.

18 CHAIRMAN ADAMS: As it was published?

19 MR. FENNER: Yes, sir.

20 CHAIRMAN ADAMS: Any questions?

21 Anyone else here to speak on this issue?

22 If not, I would entertain a motion to  
23 adopt the proposed amendments to Rule 303.41 as  
24 published in the Texas Register.

25 VICE-CHAIRMAN CARTER: So move.

1 COMMISSIONER CABRALES: Second.

2 CHAIRMAN ADAMS: It's been moved and  
3 seconded.

4 All those in favor please state aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN ADAMS: Any opposed?

7 The motion carries.

8 I would like to discuss these next two  
9 rule proposals together, jointly, Rule 321.505 and  
10 321.509. These are very integrally tied and I think  
11 all the comments will apply across the board. So if  
12 there's no -- if there's no opposition to that, I would  
13 like to handle it that way.

14 We have numerous people signed up to  
15 speak on this issue, and so I'd like to first  
16 recognize -- state that this is the allocation of  
17 purses and funds for the Texas-bred incentive programs  
18 and the proposed amendments to Rule 321.509, escrowed  
19 purse accounts. We'll begin with Mr. Jackson.

20 MR. JACKSON: Thank you, Mr. Chair.

21 Commissioners, during recent meetings in  
22 which allocation of purse and Texas-bred incentive  
23 program funds were decided, you voiced a need for  
24 criteria to be established by staff to assist you in  
25 the future when making these difficult and complicated

1 decisions that affect the industry.

2           Additionally, at the January 31st  
3 meeting, the Chair of the Commission directed staff to  
4 come up with objective guidelines on how breed split  
5 divisions should happen so that in the event the  
6 industry does not have an agreement, the Commission  
7 will be able to make a decision that would be in the  
8 best interest of the industry and that will be made  
9 with objective criteria.

10           With these goals in mind, staff developed  
11 and initiated an action plan whereby the parties who  
12 represent the industry would be instrumental in helping  
13 to develop the objective criteria that the Commission  
14 was seeking. The process took approximately three  
15 months to complete and was a worthwhile endeavor.

16           The criteria developed through staff's  
17 action plan was based on submissions from the parties  
18 who represent the varied facets of the industry and who  
19 have a stake in the outcome of the divisions of these  
20 funds earned from simulcasting.

21           By taking this approach, staff feels the  
22 end result reflects the view of the industry as a whole  
23 and does not reflect the view of any particular party.

24           Additionally, staff placed an emphasis on  
25 the entity seeking approval of the Commission to

1 produce supporting evidence in the form of studies,  
2 statistics, or other documentation that supports their  
3 recommended division of simulcast revenue and that that  
4 division of revenue has met the criteria included  
5 within these rule proposals before you today.

6           It's staff opinion that these objective  
7 criteria, coupled with an objective approach, will  
8 provide the basis for more structured discussions on  
9 divisions of funds from simulcasting in the future.

10           I did provide you a pretty detailed  
11 briefing report as well as the correspondence behind  
12 that. And I do apologize for the lengthiness of it.  
13 But I felt that the correspondence and the explanations  
14 of the people who submitted the criteria were probably  
15 as important as that briefing report.

16           If there is any questions on this, I'd be  
17 more than happy to answer them for you for staff or I  
18 know Mark Fenner can assist me as well. But I'm sure  
19 there are going to be numerous people who would like to  
20 comment on this rule -- these rules today.

21           CHAIRMAN ADAMS: Thank you, Mr. Jackson.  
22           Mr. Fenner, anything you'd like to state  
23 at this point before we have the testimony?

24           MR. FENNER: Not at this point, sir.

25           CHAIRMAN ADAMS: Any questions for

1 Mr. Jackson before we get into testimony?

2 Mr. Dave Hooper, please.

3 MR. HOOPER: Mr. Chairman, members of the  
4 Commission, I'm David Hooper, executive director of the  
5 Texas Thoroughbred Association.

6 And first, Mr. Chairman, congratulations  
7 on your being tagged as the new chairman of this august  
8 body. Dr. Carter, congratulations on becoming the new  
9 vice-chair. And welcome, Commissioner Ederer. The  
10 Texas Thoroughbred Association looks forward to working  
11 with you and your fellow Commissioners on ways to  
12 improve the present state of the racing and breeding  
13 industries in Texas, which isn't quite good at the  
14 moment.

15 Concerning the proposed rules, 321.505  
16 and 321.509, on behalf of TTA, I want to commend the  
17 staff in particular for the significant work done to  
18 acquire meaningful criteria for the various breed  
19 splits from all tracks, breed organizations, and the  
20 horsemen's organization.

21 The Texas Thoroughbred Association  
22 supports the proposed criteria as presently stated but  
23 reserves its right to submit written comment after the  
24 proposed rules are published in the Texas Register if  
25 the TTA board identifies some criteria of particular

1 concern.

2 Again, congratulations to the staff.

3 CHAIRMAN ADAMS: Thank you, Mr. Hooper.

4 Any questions of Mr. Hooper by the

5 Commission?

6 Thank you, sir.

7 Mr. Bryan Brown?

8 MR. BROWN: Good morning, Commissioners.

9 Bryan Brown for Retama Park.

10 I would like to echo what Mr. Hooper  
11 said. The staff, particularly Mr. Jackson, had a very  
12 unenviable task. They developed a couple of rules that  
13 satisfied really no one in whole but satisfied everyone  
14 in part, which I think is the only thing they could do  
15 in this situation.

16 We would recommend that the Commission  
17 approve the proposed rule. We would, however, like to  
18 have the time in between the approval and the next  
19 meeting to work further with the staff. Everybody had  
20 some good ideas or a lot of people had good ideas that  
21 might need further consideration, further discussion.  
22 We did. And we certainly would like to take the  
23 opportunity in the next few weeks leading up to the  
24 next meeting to further visit with staff and maybe  
25 refine a little bit the proposal.

1                   But we do recommend that the Commission  
2 move the process forward. We think it's important to  
3 move the process forward. And again, I think you're  
4 going to hear today that no one a hundred percent liked  
5 the rules; but that would be impossible, in my opinion,  
6 to have happen.

7                   I'd be happy to answer any questions.

8                   CHAIRMAN ADAMS: Thank you, Mr. Brown.

9                   Any questions?

10                  Tooter Jordan, please.

11                  MR. JORDAN: Good morning, Mr. Chairman,  
12 Commissioners. My name is Tooter Jordan and I'm here  
13 today, along with my friend Terry Blanton, representing  
14 the Texas Horsemen's Partnership.

15                  For the benefit of our new Commissioner,  
16 Mr. Ederer, the Texas Horsemen's Partnership is an  
17 organization recognized by the Commission as the  
18 official representative for all the horsemen racing in  
19 Texas.

20                  I'd like to thank Mrs. King and her  
21 staff, especially Sammy Jackson, for the excellent work  
22 they performed to get this rule proposal before you.  
23 We feel like the staff gave all interested parties  
24 ample opportunity to give input on this rule and then  
25 compiled a very comprehensive set of data for us to

1 examine.

2                   Obviously the division of simulcast purse  
3 money between the breeds is critical because it's our  
4 lifeline. We applaud the Commission for trying to  
5 remove the ambiguity of the old rule as an arbitrary  
6 manner in which splits have been determined in the  
7 past.

8                   In short, we support -- we're supportive  
9 of proposing the rule as it is submitted by your staff  
10 in the meeting packet and allowing us time between now  
11 and its adoption at a future meeting to better analyze  
12 the full impact of the rule on our purse structure.

13                   Specifically we'd also request that the  
14 Commission require the racetracks to furnish us current  
15 numbers and statistics for each of the categories  
16 listed as criteria for determining and requesting breed  
17 splits on the simulcast and cross-species revenue.  
18 Otherwise we have no ability to analyze the impact of  
19 such items such as seat sales, season seat sales, group  
20 sales activity, sponsor interest, market surveys, or  
21 earnings generated by the association from each breed.

22                   And in saying this, we would like to have  
23 this information back in a timely manner to where we  
24 can discuss it also. And since there's a couple of  
25 months between the Commission meetings, we'd ask for it

1 to be sent back to us as quickly as possible so that we  
2 can discuss it.

3           After a thorough review of this material  
4 and a better understanding of how these numbers compare  
5 with the other breeds, the Quarter Horse and Paint  
6 groups, we'll have a clearer picture and can speak to  
7 the rule at the adoption stage.

8           Again, we appreciate the opportunity to  
9 work with your staff up to this point and I appreciate  
10 your time here today to address these concerns. If you  
11 have any questions, I'll be happy to try to answer  
12 them.

13           CHAIRMAN ADAMS: Any questions for  
14 Mr. Jordan?

15           Do we -- does the staff have a grasp on  
16 how we might be able to do -- get this -- implement  
17 this reporting stuff that he's speaking to? Sammy, do  
18 you -- what --

19           MR. JACKSON: Well, what Mr. Jordan is  
20 asking for is just for us to compel the racetracks to  
21 provide this data because in the way the rule is  
22 structured, the entity who's making the recommendation  
23 for the percentages -- and he's specifically talking  
24 about Section (a) of 321.505 on the simulcast purse  
25 money. This would be the racetracks themselves

1 providing that data. So he's asking -- and, Tooter,  
2 tell me if I'm saying it wrong. You're wanting us to  
3 compel the racetracks to come forth with the data that  
4 they would be using on that criteria.

5 MR. JORDAN: Exactly. That was criteria  
6 that most of the racetracks have submitted. It's  
7 criteria that we have no other means of taking a look  
8 at unless it's supplied by the racetracks themselves.

9 COMMISSIONER CABRALES: Tell me again.  
10 What is the data that it is that you're wanting to have  
11 provided to you?

12 MR. JORDAN: Well, in the working group,  
13 there was several items of criteria that was said by  
14 all the different industries.

15 COMMISSIONER CABRALES: What are they?

16 MR. JORDAN: And the ones that we came up  
17 with, the best that fitted everybody -- like we said,  
18 you know, there's some of us that have got different  
19 ideas as to what this criteria comes to. But a couple  
20 or three of them was the impact -- season seat sales,  
21 group sales activity, sponsor interest, market surveys,  
22 or earnings generated by the association from each  
23 breed.

24 In other words, those are things that we  
25 have no idea what the bottom line or the dollar is. I

1 mean, without a -- without some sort of an audit or  
2 something like that, we're just taking -- you know,  
3 they're coming in with arbitrary numbers and we have to  
4 believe them. So we'd like to see them, if possible,  
5 so that we know that these are legitimate reasons for  
6 that criteria.

7                   COMMISSIONER CABRALES: Sammy, are we  
8 going to have that data? I mean, I'm assuming that if  
9 those are going to be factors that the Commission will  
10 have to apply in the event an agreement can't be  
11 reached among the various components of the industry,  
12 is that something that is supplied to us by the  
13 associations as part of their proposal?

14                   MR. JACKSON: Yes, they would have to do  
15 that. This rule -- the way the rule is crafted, it  
16 requires them to bring that information forward and  
17 make a presentation to the Commission and submit that  
18 data to justify their recommendation of the  
19 allocation.

20                   COMMISSIONER CABRALES: So do we have  
21 somebody from one of the associations or one of the  
22 tracks set up to speak?

23                   CHAIRMAN ADAMS: But if they're going to  
24 present it to us, Sammy, then I'd hope that there is a  
25 provision in there that we get it on a timely fashion.

1 Then is there anything to keep us from sharing that  
2 with the horsemen?

3 MR. JACKSON: Well, we would hope that  
4 they would have it in time to be put in the agenda  
5 packet so that it could be shown to everyone. That's  
6 always our goal.

7 There's also a provision in here in this  
8 rule -- and I've made sure to craft it in there -- is  
9 that if they don't come forward on this stuff that you,  
10 the Commission, have the ability to go, "We're not  
11 approving your allocation until you get it to us."

12 So there's a clause in here that's the  
13 hammer that says, "We're not going to give you an  
14 allocation until you bring that information forward."

15 COMMISSIONER CABRALES: Who has signed up  
16 to speak on behalf of the tracks or the associations?  
17 Do we have -- is it Bryan? Bryan? I'd like to ask him  
18 a question.

19 CHAIRMAN ADAMS: And Mr. Shubeck has also  
20 signed up.

21 COMMISSIONER CABRALES: Maybe both of  
22 them.

23 It sounds like what I'm hearing him  
24 asking for is to get that information at the point at  
25 which you all are negotiating to try to arrive at an

1 agreed set of allocations before you have to submit it  
2 to us for the Commission to decide.

3           Is there any reason why the tracks and  
4 the associations wouldn't want to provide that  
5 information to the horsemen and the breeders while  
6 you're sitting down and negotiating the elements that  
7 they're asking, which I guess would be the five or  
8 seven criteria that are in Part (a) of this new -- of  
9 this revised rule?

10           MR. BROWN: I think it's only fair that  
11 we would do that right up front. I think the rule  
12 would have to be changed to get Mr. Jordan what he  
13 would like to see. But again, I think in the period  
14 from now until adoption, we could do that. But, yeah,  
15 I think it's only fair to request that. Otherwise  
16 they're coming to the -- either coming to the  
17 Commission meeting cold, without that information, or  
18 they've got to come to you, come to staff, and obtain  
19 it and that seems awfully inefficient. And I think  
20 it's fair to require that the tracks submit that maybe  
21 at the time it's submitted to the staff.

22           COMMISSIONER CABRALES: Is that the sort  
23 of thing that you've been supplying? I mean, you all  
24 have sat down before to try to negotiate these  
25 allocations. Has that information been information

1 that the tracks have supplied previously or would that  
2 be something new?

3 MR. BROWN: This is new stuff. I mean,  
4 some of this information has been presented to the  
5 Commission; but I don't think -- to the best of my  
6 knowledge, I don't think it's been information that up  
7 front, at the time of negotiations, has been provided  
8 to the horsemen or the breed groups.

9 COMMISSIONER CABRALES: Is there anyone  
10 from the tracks who's got a different view of this than  
11 maybe Mr. Brown? Somebody -- I saw a hand. Mr. Bork?

12 VICE-CHAIRMAN CARTER: Could I ask  
13 Bryan -- Bryan, before you sit down, I have a  
14 question. Is that something readily available? I  
15 mean, is it in your computer? Do you go push a  
16 button? Or do you have to stick somebody on it for a  
17 week or two?

18 MR. BROWN: No, this would require some  
19 work from all of our accounting departments. And I  
20 think that's part of what we need to discuss in the  
21 coming weeks. We don't like doing things that produce  
22 information that's not going to be used. Some of that  
23 may not be relevant. And certainly we would like to  
24 take a look at some of the criteria to trim back, you  
25 know, for all our benefits, information that's not

1 really needed that's not going to lead the Commission  
2 to make any different decision.

3 COMMISSIONER BOYD: But isn't what  
4 Mr. Jordan is saying included in all this criteria  
5 already? I mean --

6 COMMISSIONER CABRALES: Well, I think  
7 what he's saying is he'd like to take a look at the  
8 criteria that's in the rule.

9 MR. BROWN: Yes. Again, we all agree --  
10 or most of us agree that this rule ought to move  
11 forward. There may -- and I'll just throw out group  
12 sales. You know, group sales may not be a relevant  
13 criteria for breed splits. It just may not. And so I  
14 think in the coming weeks we've got to take a look at  
15 things like that that -- that, for instance, would  
16 require, I think, a lot of digging. I mean, the  
17 numbers are somewhat easy to pull out of our  
18 financials; but there's a lot more than just the number  
19 on the top line that makes that information relevant to  
20 you as Commissioners in deciding breed splits.

21 So we can't just say, "Well, our group  
22 sales during the Quarter Horse meet were X and the  
23 Thoroughbred meet were Y and here it is." I mean,  
24 there's a lot behind those numbers that -- you know,  
25 some of the numbers may -- like we rent out our parking

1 lot quite a bit for demonstrations on automobiles.  
2 That has nothing to do with the meet, but it's in our  
3 group sales number. So we'd have to go through and  
4 pick out all our events and really show you what's  
5 relevant and what's not.

6 COMMISSIONER CABRALES: Let's ask it this  
7 way. Assuming that a data point survives in the final  
8 rule, is there any reason why you wouldn't want to be  
9 providing that to the various trade groups at the  
10 negotiation stage before you have to present a proposal  
11 to the Commission?

12 MR. BROWN: No, I think we absolutely  
13 ought to do that.

14 COMMISSIONER CABRALES: I realize there's  
15 a debate about the data points; but if they survive in  
16 the final rule, your position would be you'd be okay  
17 with providing that over to them.

18 MR. BROWN: Absolutely, yes.

19 COMMISSIONER CABRALES: Mr. Bork, have  
20 you got some thoughts on that?

21 MR. BORK: I think Bryan and I just got a  
22 little closer.

23 COMMISSIONER CABRALES: You're wishing  
24 you hadn't raised your hand now.

25 MR. BORK: Not really, because I think we

1 have a couple of circumstances at Sam Houston that are  
2 just slightly different. For instance, during the  
3 Quarter Horse meet now, we've been doing some  
4 concerts. And for instance, on Saturday night we had  
5 9,000 people there and on Sunday afternoon or Sunday  
6 night we had 15,000 people there. But a very small  
7 percentage of those people really came for the racing  
8 portion of it. They came for the concert.

9           And we try to bring them in to attract  
10 them to the racing; but I couldn't say that 14 or 15  
11 thousand people on Sunday came for the races because in  
12 the previous Sunday, when we didn't have a concert, we  
13 had 1800 people, so about 10 percent.

14           On the same hand, every one of the  
15 Commissioners here, except the new Commissioner, excuse  
16 me, have heard me talk about December, which is our --  
17 one of our best months in the year, when we are sold  
18 out for group sales. So that could create a  
19 distortion. It's not that they came for the racing,  
20 but they came for the group sales of Christmas parties  
21 and things like that.

22           So I think we have to be careful of what  
23 the criteria is that we utilize so that we're not  
24 distorting a number that should fairly not be distorted  
25 in both directions, in the Thoroughbred case and in the

1 Quarter Horse case.

2 I'd like to have an understanding. I  
3 agree with everybody else that I think the rule should  
4 go forward with the understanding that we have to be  
5 able to properly define some of these criteria, that we  
6 can exclude certain -- I don't want to say nonracing  
7 items, but other items that happen at the track that  
8 really aren't in relationship directly with a  
9 particular breed.

10 COMMISSIONER CABRALES: Right. But your  
11 concern is similar to Mr. Brown's. That goes to the  
12 relevance of the data point. But in terms of sharing  
13 the information at the negotiation phase with the trade  
14 groups, if it's a data point that survives, you don't  
15 see a reason why you wouldn't be willing to do that.

16 MR. BORK: No.

17 CHAIRMAN ADAMS: Thank you, Mr. Bork.

18 COMMISSIONER SOWELL: I have a question.

19 CHAIRMAN ADAMS: Yes, sir.

20 COMMISSIONER SOWELL: Sammy, obviously  
21 you've spent a lot of time on this; and in your  
22 preparing this material that's in our packages today,  
23 do you have an opinion at this point of the criteria  
24 that has been referred to -- do you have an opinion  
25 about which of those would be relevant, which would not

1 be relevant, and some idea of the impact of various  
2 elements of those criteria?

3 MR. JACKSON: Yes, sir. I would talk  
4 about it in the context of what Mr. Jordan brought  
5 forward asking for information about.

6 The parts that he was talking about, if  
7 you leave out the section about earnings generated by  
8 an association by each breed, which is its own criteria  
9 independently, the other aspects that he talked about,  
10 market surveys, sponsorship interest, group sales,  
11 season seat sales, are all components of one criteria.  
12 They're components of local public interest.

13 And that was -- everybody -- the majority  
14 of the criteria submitted on allocating of this money  
15 was driven by this is what -- it should be done because  
16 of the local public interest. It shows their support.  
17 And this is how you define that, is these various  
18 items. Is it attendance at the racetrack, is it how  
19 that person bets their dollar on the live product or is  
20 it how they bet their dollar on the simulcast signal  
21 from some other place across the United States, or is  
22 it driven by the seat sales of the events going on at  
23 the track during the live races or is it the group  
24 sales activity or if it was the sponsorship interest of  
25 people wanting -- outside companies investing money to

1 host a race at their track.

2                   These were -- these were -- it was kind  
3 of a culmination of definitions of what local public  
4 support meant in their criteria. So the criteria  
5 itself is the local public support and how you define  
6 it are these basically seven to six items underneath  
7 it, of which Tooter is talking about, is three or four  
8 components of that local public support.

9                   I think they're all interesting. I think  
10 they're all valid points. I don't have a negative  
11 opinion about any of them. I think you've heard  
12 exactly the same problem I was having with them in  
13 consideration and discussion on these items is that for  
14 each track, depending on what time of the year they're  
15 running their live races, you're going to have  
16 different scenarios going on. And it will not matter  
17 what breed of horse is running at the track. It's  
18 going to be the season of the year that they're running  
19 that will drive this.

20                   For example, Sam Houston chooses to have  
21 their concert series during the summer months. They  
22 don't have as many during December, January, or  
23 February when it's real rainy in Houston and cold  
24 outside because their concert venue is an outdoor  
25 event.

1 Lone Star Park runs their Thoroughbred  
2 meet in the fall of -- I mean, in the spring of the  
3 year, which is a great time in Dallas for being  
4 outdoors because the cold weather is leaving. It's  
5 springtime. We're having Easter egg hunts. You know,  
6 we're doing NASCAR racing. We've got 4th of July at  
7 their meet. We've got 17,000 people showing up to come  
8 watch firecrackers at the track.

9 You know, so you've got a lot of things  
10 going on differently at the different meets that's  
11 going to affect -- and it will not be, you know, tied  
12 specifically to the breed of the horse that's going  
13 on.

14 Because of that, when we crafted the  
15 rule, we knew that was going to be an issue. So we  
16 crafted the rule and in keeping it somewhat integrity  
17 of how it had been in the past, which was it's the  
18 track, the racetrack, recommends the division of the  
19 revenue in this portion of this rule. So it's the  
20 racetrack that has the burden to come before the  
21 Commission when they -- and that's if there's no  
22 agreement. If there is an agreement in place, we don't  
23 have to jump through all those criteria hurdle.

24 So I would echo that some of this will  
25 hopefully encourage everybody to sit down at the table

1 and do a little more negotiation and not fighting it  
2 out at the podium in front of you, to be candid.

3 But, you know, in the event it does come  
4 before the podium and it has to come here, these were  
5 the criterias that were supported -- or submitted by  
6 the industry. And I would make this comment. I don't  
7 want to put the person on the spot. But the one who  
8 really submitted this information has not spoke at the  
9 podium yet. And I'd like to hear what he has to say  
10 about it. And that would be Mr. Shubeck.

11 COMMISSIONER SOWELL: Boy, did he set a  
12 trap for you.

13 MR. SHUBECK: Not at all. I think it's  
14 appropriate to go last in this.

15 I again want to echo what just about  
16 everybody else said. I want to thank Charla Ann King  
17 and your staff for taking the time to put on paper  
18 criteria for these two big issues.

19 I think what it does, it exposes to the  
20 public what we already do behind closed doors. I mean,  
21 already for 2008 we're trying to make our business  
22 plans. We're selecting racing days and things like  
23 that. So we look at all these types of criteria, but  
24 normally it's done with my executive staff. It's not  
25 shared with the horsemen and the Commission and

1 everyone else.

2           And I actually think this is a great  
3 thing because really what we're trying to do here as  
4 racetracks in Texas is we're trying to survive. I've  
5 said in the past and in front of this podium that  
6 racing in Texas is in a dire straits. I mean, we're --  
7 we've got a very restrictive Racing Act. We don't have  
8 OTB's. We don't have legalized account wagering. We  
9 don't have a lot of the tools that racetracks have in  
10 2007 to survive. And every day our customers are  
11 turning to betting online, through either illegal  
12 bookmakers or illegal operations that are located out  
13 of state, and we get little or no revenue from them.  
14 In fact, no revenue at all.

15           So we're challenged every day to come up  
16 with group sales packages, to come up with promotions  
17 to get people in the door so they can experience live  
18 racing, whether it be Thoroughbred or Quarter Horse  
19 racing, have a great experience at the track, and then  
20 come back for the year-round simulcasting that's  
21 available to them at our track as well because that's  
22 where the real money is. If you turn off full-card  
23 simulcasting, you destroy racing in the State of  
24 Texas. It's that simple. Because that is our life  
25 blood.

1                   And what we do to get people involved in  
2 full-card simulcasting is we want to have a good live  
3 track experience for them, great food, a great group  
4 sales package, whatever it takes to get them in the  
5 door to enjoy themselves at the racetrack to try to  
6 make a core customer out of them. And I think at Lone  
7 Star we do a pretty good job of it.

8                   COMMISSIONER BOYD: Drew, let me  
9 interrupt, since you said group sales. Give me an  
10 example of group sales.

11                   MR. SHUBECK: I mean, a group could be as  
12 small as 20 people or it could be as large as 12, 15  
13 thousand. It just depends on what company or  
14 individual wants to bring out. They can either be in a  
15 luxury suite at Lone Star Park. They can be part of  
16 our Silks dining room, a package in there. Or they  
17 could literally rent the whole facility as Microsoft  
18 has done in the past and some other large  
19 corporations.

20                   So really we offer something for  
21 everyone. And everything is priced, naturally, so we  
22 make money at it. I mean, it includes parking. It  
23 includes an admission price. It includes an F and B  
24 component. So we're trying to make money from people  
25 coming in without necessarily them wagering. And of

1 course, they're going to wager a little; but they're  
2 not going to wager at the rate that a core customer  
3 does, maybe 200, 250 dollars a head, like they would  
4 experience -- we would experience in the simulcast  
5 pavilion. They might only bet 30 or 20 dollars a  
6 head. And that's fine because they're a new customer  
7 and they're enjoying themselves and they're getting a  
8 great experience.

9 COMMISSIONER BOYD: And group sales may  
10 be more relative to, like, Lone Star than to Retama as  
11 a Class 1 track.

12 MR. SHUBECK: They might do it on a  
13 smaller scale, but I know they do it. And I'm sure  
14 they do a great job at it.

15 COMMISSIONER BOYD: Thank you.

16 VICE-CHAIRMAN CARTER: But I think one of  
17 the points that was made -- I'd just like for you to  
18 say yes or no. One of the points that was made, that  
19 may have nothing to do with what breed is running.

20 MR. SHUBECK: Absolutely. And some of  
21 these criteria, you've got to take them for what they  
22 are. But I think they're all important in the grand  
23 scheme of things. You might look at one number and you  
24 might say, "Wow, this favors the Quarter Horses." But  
25 then if you do a little more analysis, you might say,

1 "Well, no, it has to do with the time of year," or  
2 something like that. Another thing might greatly skew  
3 towards Thoroughbreds, but a further look at the  
4 numbers will change the conclusion altogether.

5           So we do this every day in the business.  
6 We might do a hat giveaway or something like that. But  
7 at the next week, when we're looking at all the  
8 numbers, we might say, "You know what? Even though we  
9 had 10,000 people at the track that day, they really  
10 didn't wager a lot. I spent 50,000 on media. We're  
11 probably not going to do that next year. Maybe we'll  
12 do a concert or something else."

13           So that's something that we struggle with  
14 every day every year through our business planning  
15 process. And we're just like anybody else. We're  
16 trying to survive and we're trying to make some money.

17           COMMISSIONER CABRALES: Mr. Shubeck, with  
18 regard to those data points, whatever does survive in  
19 the rule when it's finally promulgated, do you agree  
20 with Mr. Bork and Mr. Brown that providing that to the  
21 horsemen and the other trade groups when you're sitting  
22 down and negotiating would make sense to try to enhance  
23 the likelihood that you could arrive at an agreement  
24 with them?

25           MR. SHUBECK: Absolutely.

1                   COMMISSIONER BOYD: And with the  
2 understanding that you have gone through this process  
3 and you are experimenting from year to year. You're  
4 trying to pull out new things to make it work. And  
5 they need to understand your dilemma, what you're  
6 facing, that this didn't work and so the looks -- the  
7 look at the track for that period of time may be  
8 something that we don't do again. So a bird's-eye view  
9 is going to have to be backed up by a whole lot of  
10 conversation and experience from what you --

11                   MR. SHUBECK: Absolutely. And it will  
12 depend on the market where the track is located. I  
13 mean, obviously Texas is a huge state. It's the size  
14 of probably the whole northeast where I came from. And  
15 something that works at Retama may not work at Lone  
16 Star Park or at Manor Downs will not work at another  
17 track.

18                   So the horsemen have to look at that  
19 realistically and say, you know, in a major market you  
20 can do this; in a small market you can do that. And if  
21 everybody is objective, there won't be any problem at  
22 all.

23                   COMMISSIONER BOYD: And can I ask Sammy  
24 one question?

25                   CHAIRMAN ADAMS: Certainly. Go ahead.

1 MR. JACKSON: Yes, ma'am.

2 COMMISSIONER BOYD: Sammy, when you  
3 pulled this group together, the horsemen  
4 representatives and the tracks, and when you pulled  
5 this whole group together, each one of them was given  
6 the same weight, correct?

7 MR. JACKSON: What we did was we did a  
8 weighted average. They were asked to submit five items  
9 prioritized. The highest -- number one was rated the  
10 highest and they were given five points; second was  
11 four; third was three; fourth was two; fifth was one.  
12 Then what we tried to do was those that linked up in  
13 the same category, we did a sum total of the points  
14 awarded and came up with the one with the most points  
15 and then ranked out from the industry viewpoint as the  
16 top item.

17 COMMISSIONER BOYD: But each individual  
18 person that you asked, that individual person was given  
19 credence to add to this process, correct?

20 MR. JACKSON: Yes, ma'am.

21 COMMISSIONER BOYD: And then everything  
22 that was put down here was from --

23 MR. JACKSON: Correct. That is correct.

24 COMMISSIONER BOYD: -- a culmination of  
25 everything that you received.

1                   MR. JACKSON: That is correct. The only  
2 one who -- the only criteria that was submitted and  
3 that was reviewed was from the industry themselves.  
4 Staff did no submission of criteria whatsoever.

5                   COMMISSIONER CABRALES: Sammy, can I ask  
6 you a question about the seven factors?

7                   MR. JACKSON: Yes, sir.

8                   COMMISSIONER CABRALES: Are there any of  
9 these seven that you or the staff feel are of such  
10 limited usefulness for allocation purposes that maybe  
11 they don't belong in that list of seven?

12                   MR. JACKSON: The only one that gave me  
13 any heartburn was the market survey one. Only because  
14 looking at it from the component of five racetracks and  
15 not specifically looking at three, where we have two  
16 smaller tracks that probably do not even get into that  
17 kind of stuff, I doubt they would ever have a market  
18 survey study done at Gillespie County Fair probably or  
19 Manor Downs. Probably Lone Star would do that. I  
20 think Sam Houston may do that. I'm not sure that  
21 Retama is actually doing that now at the moment  
22 anyway. So that's the only one that really gave me  
23 heartburn.

24                   The reason why they're all on there, I'll  
25 be quite candid, when we started going through this and

1 reviewing it, what we realized was there was a public  
2 interest criteria and it was how the individuals were  
3 defining what public interest meant. So what you have  
4 before you in the breakdown of that public -- local  
5 public interest criteria is every piece of information  
6 that was submitted to define local public interest.

7 I left nothing out on it because, to be  
8 quite candid, it just kind of broke down at prioritized  
9 criteria, so it was more understandable about what the  
10 individuals meant. And I didn't want -- I didn't feel  
11 like I should leave anything out on that at this  
12 point. I thought we should get it here. We should  
13 discuss it and get some direction from this viewpoint  
14 and have time to go through the process and see what  
15 needed to be vetted on it because we're getting exactly  
16 what I hoped for, very good conversation today to talk  
17 about it from some different perspectives and also get  
18 the feedback from the Commissioners because this was a  
19 direction to staff from you.

20 COMMISSIONER SOWELL: Sammy, another  
21 question. This has been touched on already. But it  
22 seems to me that there's a huge problem involved in the  
23 trend that appears to be in vogue; and that is the  
24 issue of a concert, for example. Mr. Bork mentioned it  
25 and so did Mr. Shubeck. If you've got a real big-time

1 rock star or a country singer or what have you and you  
2 draw 20 or 30 thousand people, it doesn't make any  
3 difference whether mules are running or donkeys or dogs  
4 or anything else. Most of those people have been  
5 attracted by something other than the racing and  
6 certainly any particular breed.

7 MR. JACKSON: Yes, sir.

8 COMMISSIONER SOWELL: So that seems to me  
9 to be an almost insurmountable problem for you and the  
10 group to determine what the impact of something like  
11 that is on what otherwise can be fairly objective.  
12 That's a very tough situation.

13 MR. JACKSON: Yes, it will be. And I'm  
14 not sure exactly what the perfect solution to it is. I  
15 think, to be quite candid, we're just going to see more  
16 and more of that. I think the racetracks are in a  
17 position now that they are going to be diversifying  
18 themselves into entertainment facilities, not --

19 COMMISSIONER SOWELL: They have to.

20 MR. JACKSON: They have to. They have no  
21 choice in it. I mean, I made the comment at our  
22 meeting that we had in Austin when we got into  
23 discussing some of this and I took a -- everybody was  
24 focusing on the Class 1 racetracks. And I said, "I'm  
25 not really worried about the Class 1 racetracks. The

1 one I'm worried about is Gillespie County Fair."

2           And they all kind of looked at me like,  
3 "What are you talking about?" I said, "Well, how are  
4 you going to explain the 12,000 people that showed up  
5 out there for the county fair weekend when they have  
6 more attendance than any of our Class 1 racetracks and  
7 their live handle on their live races exceeds all of  
8 our Class 1 tracks?"

9           And everybody just looked at me. And I  
10 went, "Yeah."

11           You see that it's not just a dilemma at  
12 the Class 1's. It is a dilemma across the board. But  
13 all of our tracks are forced to diversify themselves.  
14 And this will be an issue. I'm not sure what is the  
15 perfect scenario for it; but I will say that, kind of  
16 repeating something I said again, it is the burden of  
17 the racetrack to come before you to present this data.  
18 And I am confident that from the executives and stuff,  
19 when they bring this information forth, that they're  
20 going to have to sit down and factor this information  
21 in when they make that presentation to you.

22           That's the solution I have at this  
23 point. I know it probably needs some more work, and we  
24 will do that if that's what's called for.

25           COMMISSIONER BOYD: And one last question

1 on 16-3, under 321.505, Part (3), where it says "Before  
2 determining the percentages, the Commission shall  
3 provide an opportunity for the official horse breed  
4 registries designated in the act to present information  
5 regarding the criteria specified in Paragraph (b)(2),"  
6 blah, blah, blah. That does mean in writing, correct?  
7 That's -- because we need that information.

8 MR. JACKSON: Yes. I mean, we probably  
9 should modify that if you want it articulated in that  
10 complete manner. But that was the intent.

11 COMMISSIONER BOYD: I know there was a  
12 lot of conversation over the phone, in meetings, and  
13 stuff like that; and I think it's important for us to  
14 have that in writing so that we can prep for the  
15 meetings.

16 MR. JACKSON: Okay.

17 VICE-CHAIRMAN CARTER: I agree with that  
18 recommendation.

19 CHAIRMAN ADAMS: We do have one  
20 additional speaker that's signed up, so before we get  
21 into a full scale discussion here.

22 Thank you, Mr. Shubeck.

23 Mr. Werstler, please?

24 MR. WERSTLER: Are you guys finished with  
25 Mr. Jordan? Can we excuse him?

1                   CHAIRMAN ADAMS: I think we are.

2                   MR. WERSTLER: He's making me nervous  
3 standing there.

4                   Good afternoon, Commissioners. My name  
5 is Rob Werstler. I'm the executive director of the  
6 Texas Quarter Horse Association.

7                   It's our belief that developing fair,  
8 impartial, and unbiased criteria for the Commission to  
9 utilize to allocate purse percentages should be a  
10 priority and we applaud staff for their efforts.  
11 However, we feel proposing rule changes at this time is  
12 a bit premature and more time and dialogue is needed.

13                   Last year we had basically the same  
14 exercise over race dates. Commissioner Adams,  
15 Commissioner Sowell, you were a part of those  
16 meetings. We met four times, I believe, across the  
17 state at different venues. There was a lot of  
18 excellent dialogue. Staff developed some excellent  
19 study guides that made the industry look at race dates  
20 in a whole new way. I think that's what we're missing  
21 here.

22                   The breed split issue is even more  
23 important to the industry or as important or probably  
24 more. However, we've only had one meeting prior to  
25 this for proposing these rules. It's our belief that

1 we have much more work to be done and more dialogue.

2                   However, with the comments that have been  
3 made earlier, if you do propose the rules today, I  
4 agree with Mr. Jordan. I would like to see guidelines  
5 well in advance of the next Racing Commission meeting.

6                   I have a question of staff, I guess of  
7 Sammy. Does the current rule, as written, allow a  
8 racetrack to change this formula every year?

9                   MR. JACKSON: You mean the division  
10 recommendation?

11                   MR. WERSTLER: Right. I mean, if they  
12 come to us -- for example, live attendance. And I read  
13 in your response to Mr. Hooper's -- and I'll just read  
14 it. This was from Mr. Hooper to Mr. Jackson. "Does  
15 the reference mean total live attendance or average  
16 live attendance?" And Mr. Jackson answers, "When  
17 requesting Commission approval of the percentages, the  
18 association shall present studies, statistics, and  
19 other documentation supporting the association's  
20 application of the criteria. Thus, it would be up to  
21 the association to make the determination and present  
22 such information to the Commission."

23                   And my question is: Do they -- are we  
24 going to have a standard each year? Is that going to  
25 change? Is the formula going to change? Or is it up

1 to the racetracks, that they will be able to change  
2 it?

3 MR. JACKSON: I don't think there's any  
4 actual formula written in the rule now, first. Second,  
5 the comment -- you talked about the time line of it is  
6 that currently the rule that addresses breed splits, we  
7 do it once for the upcoming calendar year.

8 MR. WERSTLER: Right.

9 MR. JACKSON: I don't think that would  
10 change unless there's an industry agreement in place,  
11 which we've had in the past, where there's been  
12 three-year agreements and we've went three years  
13 without addressing breed split divisions before the  
14 Commission because of those agreements.

15 So that being said, as far as the  
16 Commission -- I mean, the racetrack coming before the  
17 Commission to make a recommendation, I would assume we  
18 would continue to do it the same way if there's no  
19 industry agreement in place.

20 MR. WERSTLER: That's not what I mean. I  
21 know the time frame will be the same most probably, but  
22 let's say it is October 1st that they come before the  
23 Commission every year to ask -- to recommend breed  
24 splits. October 1st, 2007, they bring us something,  
25 these are the guidelines we used pertaining to live

1 attendance. October 1st, 2008, these are the criteria  
2 we used.

3 MR. JACKSON: So are you asking if  
4 they're going to change the components within the --

5 MR. WERSTLER: Right, the formula that  
6 they come up with that they use for live attendance.  
7 The way I read it, I believe they can do that. I mean,  
8 so, you know, it may end up being a good thing, to  
9 where it's more discussion; but it even drives home the  
10 point that we need to know what they're going to use --  
11 what formula they're going to use well in advance of  
12 the Racing Commission meetings.

13 MS. KING: So, Rob, are you asking in  
14 terms of the method of calculating these items?

15 MR. WERSTLER: Right.

16 MS. KING: Is the method of calculation  
17 just like a performance measure? Are they going to be  
18 able to use a different one from year to year?

19 MR. JACKSON: Well, obviously they could  
20 try.

21 MR. WERSTLER: I mean, basically your  
22 answer was it's up to the association to make that  
23 determination and present such information. And then  
24 that leads me to: Who regulates that? I mean, who  
25 looks at these group sales activities, season seats?

1 Do we just take that from the racetracks? Does the  
2 Racing Commission get that at a certain date, regulate  
3 it, get that to us?

4           You know, there's a bunch of factors in  
5 here. Marketing budgets, for example. Obviously our  
6 attendance is going to be less at, say, Lone Star Park  
7 because they use much more money to market their  
8 Thoroughbred meet. Are things like that going to be  
9 used? That's why I say I just think we need to  
10 think -- a lot more dialogue, a lot more time spent on  
11 developing these rules.

12           MR. JACKSON: Well, to further comment, I  
13 think it would be very easy to tie this back to the  
14 requirement that is already on the books of the  
15 racetracks as well as the breed registries. That is  
16 their certified public financial statements that they  
17 must file with the Commission on June 15th, which is  
18 for the previous calendar year.

19           This is the same approach that we take  
20 when we do race date projections for purses on race  
21 date requests from the racetracks where we look at data  
22 from the previous calendar year.

23           So I mean, that would be a certified  
24 public audited report in which they have to have sales  
25 revenue and stuff like that. That would be included

1 within that. It could be tied back to that, used on  
2 that calendar year basis.

3 Did it get credence in the adoption of  
4 the rule? No, it's not articulated that way. I could  
5 say, though, that that was part of the consideration  
6 when we did this, looking down the road at consistency  
7 issues.

8 MS. KING: Because I think we would want  
9 to provide guidance in that discussion. Let's say that  
10 it was adopted. We would go through the process. We  
11 would find out a lot about the assumptions that people  
12 are making in providing that information. And I think,  
13 you know, if we had enough resources, we may be  
14 interested in that rule; but the timing of it is  
15 critical and it will be resource intensive and so we'll  
16 just have to work on that as we go along.

17 But we've had that same issue anyway  
18 because when the Commission has asked for information  
19 in the past, we've been having to press forward and ask  
20 them for information and try to make it consistent and  
21 try to get more detail. So we're having that issue  
22 right now. Hopefully this process could open it up a  
23 little bit more for the discussion of the assumptions  
24 in calculating that. But I agree that there's timing  
25 issues and resource issues to getting that done.

1           MR. WERSTLER: Again, we feel this is a  
2 worthwhile effort, one that will make all of our jobs  
3 much easier so we don't have these marathon Commission  
4 meetings over breed splits. However, we just feel we  
5 need more dialogue.

6           And I'll entertain any questions you may  
7 have.

8           CHAIRMAN ADAMS: Any questions?

9           MR. WERSTLER: Dr. Carter?

10          VICE-CHAIRMAN CARTER: If you would, "We  
11 need more dialogue," expand on that. What do you think  
12 should happen that hasn't happened? I know this is  
13 going to -- this is going to be published and everybody  
14 is going to have an opportunity to comment and then  
15 it's going to be revisited in a meeting. Does that  
16 satisfy your concerns about more dialogue or what are  
17 you proposing or what are you suggesting?

18          MR. WERSTLER: I just think one meeting  
19 isn't enough to get all the information out that we  
20 need. This is a very, very important and dangerous  
21 discussion for us. I mean, we may walk out of there  
22 with five percent and that's the end of us. We're told  
23 continually that we don't -- the reason they drop --  
24 racetracks drop race days, Quarter Horse race days,  
25 every year is because they don't have enough purse

1 money. Well, if we end up with these guidelines come  
2 through and the racetracks -- you all know. They come  
3 before you every year and they ask for the lion's share  
4 to go to the Thoroughbreds and they defend that pretty  
5 strongly.

6           So now they're going to be pretty much in  
7 charge of bringing this information to you. So it  
8 worries us somewhat. We just think we should speak --  
9 have more dialogue, a few more meetings talking about  
10 it.

11           And with proposing, I mean, the way it's  
12 supposed to work and has in the past but hasn't some  
13 other times, it's proposed and then 60 days later it's  
14 up for adoption. But usually, it's been my experience,  
15 when things get proposed, they usually get adopted. I  
16 mean, it's pretty tough to -- in my opinion.

17           So that would be our concerns, that once  
18 these are proposed as is, they'll be adopted as is and  
19 maybe there will be a few tweaks. Now, if we are going  
20 to meet several times prior, then that's fine. But I  
21 don't know that there are any proposed rules -- I mean,  
22 proposed meetings prior to adoption.

23           VICE-CHAIRMAN CARTER: Could you address  
24 that, Charla Ann, please?

25           MS. KING: I'm happy to. We don't have

1 any meetings planned, though I've heard others mention  
2 getting the rule out at the Texas Register and then go  
3 to work on it further. I think some of it's about  
4 timing and making sure that we were getting this back  
5 to you as soon as we could. We're, of course, happy to  
6 have some additional meetings. I couldn't say how many  
7 it would require. But we're happy to do that.

8 MR. WERSTLER: If there are major changes  
9 to this rule, will it have to be repropoed? How major  
10 will it have to be?

11 MR. FENNER: Items need to be repropoed  
12 primarily when they affect new parties. So since this  
13 is going to be a very limited subject matter, that is,  
14 the breed split rules, and the parties involved are  
15 pretty much on notice, I don't foresee that it would  
16 have to be repropoed unless it goes to truly a  
17 tremendous change of the rule. I mean, I'm speculating  
18 at this point because I don't know what level of  
19 proposal of change you're proposing.

20 CHAIRMAN ADAMS: Okay. Any other  
21 questions for Mr. Werstler?

22 MR. WERSTLER: Thank you.

23 CHAIRMAN ADAMS: Thank you, Rob.

24 Okay. That's all the cards I have for  
25 individuals signed in. Anyone else to address the

1 Commission on this subject?

2           If not, I'll close the public hearing  
3 portion of this and close the public comment portion  
4 and ask if there's any discussion among Commissioners  
5 before I --

6           COMMISSIONER CABRALES: Yeah, I'd like to  
7 make a point. I do think it makes sense to me to  
8 require the tracks to provide some of these data points  
9 to the trade organizations that they sit down and  
10 negotiate because, to me, that encourages that  
11 discussion to be meaningful and hopefully avoids the  
12 Commission's need to ultimately have to apply the  
13 criteria, which I think I -- certainly, speaking for  
14 myself, I'd rather see proposals that have the  
15 consensus of the industry as opposed to having us have  
16 to start splitting the baby up here.

17           So if there were a way to rewrite this  
18 rule or at least add a provision to the rule in the  
19 negotiation phase to have that information provided  
20 over so that they can have a more meaningful  
21 discussion, I think that would be helpful to this rule,  
22 which I believe is a well-thought-out and well-written  
23 rule.

24           I would also encourage the track owners  
25 to come to us with some more information about the

1 burden that they would be under in providing some of  
2 this information relative to the utility that they  
3 think or lack of utility that that information would  
4 have in the discussion because I, for one, am open to  
5 hearing about how these seven criteria -- whether they  
6 need to be seven or whether we can pare them down to  
7 five or whether we can maybe refine them to the point  
8 where there is a balance between the burden on the  
9 tracks versus the utility of the information for  
10 purposes of this discussion.

11 I think some thought to that certainly is  
12 warranted. But the proposal and the idea makes a lot  
13 of sense to me and I think this is well done and, you  
14 know, a lot of hard work obviously went into this.

15 CHAIRMAN ADAMS: Yes, Ms. Boyd.

16 COMMISSIONER BOYD: Commissioner  
17 Cabrales, are you suggesting that where there is an  
18 industry agreement, we go with that agreement? Where  
19 there isn't an industry agreement, we fall back to the  
20 formula?

21 COMMISSIONER CABRALES: Well, I mean, I  
22 think that's the way the rule is written right now. If  
23 there's an industry agreement, I mean, I guess unless  
24 we find that the industry agreement violates public  
25 policy or something like that, then we have to act as

1 Commissioners with regard to that.

2           But my experience has been -- my limited  
3 experience has been, when something comes up here with  
4 the support of the industry, all the relevant voices  
5 have been heard on that and so that's an agreement that  
6 we ought to take a lot of comfort in.

7           But the way this rule is written, my  
8 understanding is that it's in the absence of an  
9 agreement where the tracks would have to come to us,  
10 apply these factors, all this criteria, and make their  
11 case for why the allocation ought to be one way and  
12 then we're going to hear from the industry  
13 representatives about why it ought to be a different  
14 way. And then it will be up to us ultimately.

15           And so it's because of that that I think  
16 it would be most useful to put that information in the  
17 hands of all the negotiating parties before they ever  
18 have to come to us so that they can work as hard as  
19 they can to get it hammered out in the form of an  
20 agreement before we have to then apply the criteria  
21 here.

22           COMMISSIONER BOYD: I misunderstood. I  
23 thought you said if they could come up with an  
24 agreement, then we don't have to institute this; but  
25 you meant that we could do both.

1                   COMMISSIONER CABRALES: Well, no. I  
2 mean, my understanding of how the rule is written is  
3 that if they present us with an agreement, you know,  
4 absent a couple of concerns about it, maybe not being  
5 signed by everyone or not being a true agreement, we'll  
6 do what we usually do as a Commission and look at that  
7 agreement and hopefully institute the allocation based  
8 on the agreement.

9                   It's in the absence of an agreement that  
10 we then have to fall back to the criteria. And it's  
11 because of that that I think it makes sense to then  
12 let's get that criteria and that data over to the  
13 parties who negotiate that agreement. That's my  
14 thought.

15                   COMMISSIONER SOWELL: Mr. Chairman, a  
16 question of our executive director. Is this a place  
17 where we might benefit everybody by taking the course  
18 that we did before and in a working group situation or  
19 whatever you want to call it?

20                   It seems to me like there's a lot of  
21 sentiment for more conversation, more dialogue, more  
22 information, more opportunities to exchange ideas; and  
23 if we don't do anything to provide that other than our  
24 next meeting, it looks to me like we're going to leave  
25 a lot of unsatisfied potential. I don't know.

1           Mr. Chairman, we had pretty good luck  
2 with the working group last time. It adds to our  
3 burden, but that's why we're here.

4           CHAIRMAN ADAMS: I agree with that. I  
5 would certainly entertain it. If that's the wish of  
6 the Commission, we can go that route. I personally  
7 think that Sammy has done an excellent job of polling  
8 the industry and getting to this position. And we  
9 had -- of the cards signed here, the majority of the  
10 folks were in agreement that this was the time to go  
11 ahead with this. But if it's the wish of the  
12 Commission that we back down and spend more time on it,  
13 we can certainly do that.

14           COMMISSIONER EDERER: Mr. Chairman?

15           CHAIRMAN ADAMS: Yes, sir.

16           COMMISSIONER EDERER: And, Sammy, I'll  
17 direct this to you. I support what David has said 100  
18 percent. I think the criteria must go to the parties  
19 that are involved here that are going to have input.  
20 As far as another meeting -- not a -- a sub-meeting or  
21 whatever --

22           COMMISSIONER SOWELL: Working group is  
23 what we called it before.

24           COMMISSIONER EDERER: A working group  
25 meeting. I haven't heard anything from anyone that

1 says there's any criteria that we have to discuss that  
2 hasn't already been discussed.

3           What I'm saying is Mr. Werstler said he  
4 would like to have more dialogue, but he didn't  
5 identify any dialogue that he'd like to have. If there  
6 is more dialogue, what is it that he's talking about  
7 that we would discuss in the meeting? I think the  
8 sub-meeting is a good idea if it's necessary; but if  
9 we're all just going to sit and meet just to rehash the  
10 same thing that you've gone over and over and over, I  
11 don't see any need for it.

12           So I don't know. Does Mr. Werstler have  
13 any particular criteria that he thinks that we need to  
14 discuss?

15           VICE-CHAIRMAN CARTER: Mr. Chairman, can  
16 I ask one question before Rob starts?

17           CHAIRMAN ADAMS: Certainly.

18           VICE-CHAIRMAN CARTER: Charla Ann, you  
19 were not offered the opportunity to answer Mr. Sowell.

20           MS. KING: Okay. I'm always in favor of  
21 working group meetings and getting a couple of  
22 Commissioners there because I think it really helps  
23 round out the discussion. So I'm always supportive of  
24 that.

25           I do believe, as Commissioner Ederer was

1 pointing out, that a lot of work has gone into this  
2 already. We want to keep the process moving. And I  
3 think that Sammy agrees with that. And we would like  
4 perhaps clarification from Rob about what additional  
5 things he'd like to be added.

6 But I don't think waiting to publish  
7 it -- I probably wouldn't recommend that. I recommend  
8 going forward and getting people together and talking  
9 about it to move the process along. So I'm happy to do  
10 that, but I think we should -- because if we get into  
11 that working group process and we decide that we find  
12 something that we didn't find already, you don't have  
13 to -- we don't have to act on it. We can always -- we  
14 can always repost, can we not?

15 MR. FENNER: Yes.

16 MS. KING: So to me, it keeps the process  
17 moving. It keeps people providing leadership, you  
18 know, driving their issues that they're interested in.  
19 It will keep people attending to the issue. And that  
20 includes getting the feedback, the kind of feedback I  
21 believe that Mr. Jordan was talking about in terms of a  
22 preview of what this data would look like. And the  
23 tracks -- like Commissioner Cabrales said, what is that  
24 challenge going to be like, how hard is it going to be  
25 to produce that information.

1           We need to get that process moving and I  
2 think not adopting it would get in the way of getting  
3 all of that stuff done as expediently as possible.

4           VICE-CHAIRMAN CARTER: Can I get  
5 clarification on one point? I think I know what you  
6 said, but I'm not sure. So you said post it, get the  
7 process started, but still have the meeting like we  
8 might have if we had a working group meeting.

9           MS. KING: That's right. And then we'll  
10 have a proposed rule to be working from. Because a lot  
11 of work has already occurred.

12           CHAIRMAN ADAMS: Do we still need  
13 Mr. Werstler?

14           MR. WERSTLER: That's great. As long as  
15 we meet prior to that meeting and have an idea of what  
16 that is.

17           VICE-CHAIRMAN CARTER: That would satisfy  
18 everybody's concerns?

19           MR. WERSTLER: Yes, sir.

20           CHAIRMAN ADAMS: Okay. Any further  
21 discussion?

22           I'd like to go ahead and bring a motion  
23 here -- get a motion on the table. I was asked by  
24 counsel to split these motions and act on each motion  
25 separately. So the Chair will entertain a motion to

1 publish the proposed amendment to Rule 321.505 in the  
2 Texas Register for public comment.

3 COMMISSIONER CABRALES: So move.

4 MR. ARCHER: Second.

5 CHAIRMAN ADAMS: Moved and seconded.

6 All those in favor?

7 COMMISSIONERS: Aye.

8 CHAIRMAN ADAMS: Any opposed?

9 The motion carries.

10 The second motion would be to publish the  
11 proposed amendment to Rule 321.509 in the Texas  
12 Register for public comment.

13 VICE-CHAIRMAN CARTER: So move.

14 COMMISSIONER SOWELL: So move.

15 CHAIRMAN ADAMS: Moved and seconded.

16 All those in favor?

17 COMMISSIONERS: Aye.

18 CHAIRMAN ADAMS: Any opposed?

19 COMMISSIONER BOYD: Discussion?

20 CHAIRMAN ADAMS: Yes, ma'am.

21 COMMISSIONER BOYD: With including that  
22 "in writing" portion, please.

23 CHAIRMAN ADAMS: We can amend that into  
24 the -- and the writing portion only applies to the  
25 second portion?

1 COMMISSIONER BOYD: Yes.

2 CHAIRMAN ADAMS: Or do you want to back  
3 up and do you want to include that in the first one?  
4 What do you mean, Ms. Boyd?

5 COMMISSIONER BOYD: Let me check and  
6 see.

7 MR. FENNER: Commissioner Boyd, may I  
8 suggest that taking your comments to heart about  
9 requiring it in writing, that rather than try to  
10 rewrite that proposal right now before publication that  
11 we would work on that as part of the working group  
12 process and incorporate it into the adoption?

13 COMMISSIONER BOYD: I'll second that.  
14 Thank you.

15 CHAIRMAN ADAMS: Okay. It's been moved  
16 and seconded for the posting of 321.509.

17 All those in favor?

18 COMMISSIONERS: Aye.

19 CHAIRMAN ADAMS: Any opposed?

20 The motion carries.

21 The next item is a proposal by the Texas  
22 Thoroughbred Association to amend Rule 303.93 -- 92,  
23 excuse me, Thoroughbred rules. Mr. Dave Hooper,  
24 please.

25 MR. HOOPER: Thank you again,

1 Mr. Chairman. I'm David Hooper with the Texas  
2 Thoroughbred Association.

3 This proposed rule amendment has been  
4 passed unanimously by the Texas Thoroughbred  
5 Association board of directors and it's to make  
6 participation in the accredited Texas-bred program that  
7 much more inclusive.

8 Over the years we've found that many  
9 participants that are new, particularly new to the  
10 accredited Texas-bred incentive program, may not be  
11 aware of the present rule on the books requiring a mare  
12 to be accredited before the birth of her foal in order  
13 for that person to qualify for ATB breeders' awards and  
14 therefore they're really being penalized.

15 While maintaining a restricted period for  
16 accreditation by which to qualify for ATB breeders'  
17 awards, the rule amendment that is being proposed will  
18 serve to encourage participation in the ATB program and  
19 contribute to the improved quality of Texas-bred  
20 Thoroughbreds.

21 And the rule really just expands the  
22 period of time that you can accredit an accredited  
23 Texas -- or make a mare an accredited Texas-bred  
24 Thoroughbred. You can do it for the whole year of the  
25 foaling year for the foal that would make that person

1 eligible for breeders' awards rather than requiring  
2 that the breeder had to have accredited the mare before  
3 the foaling actually did occur.

4           If you have any questions, I'll be happy  
5 to entertain them. Yes, sir.

6           CHAIRMAN ADAMS: Any questions of  
7 Mr. Hooper? Yes, Dr. Carter.

8           VICE-CHAIRMAN CARTER: There's no  
9 retroactive effect to this. It's all got to be  
10 proactive.

11          MR. HOOPER: All proactive, yes.

12          VICE-CHAIRMAN CARTER: If we pass it,  
13 nobody is going to benefit from it today.

14          MR. HOOPER: No. It's to be effective  
15 January 1st, 2008. I neglected to add that.

16          CHAIRMAN ADAMS: Any other questions?  
17 Yes, ma'am.

18          COMMISSIONER BOYD: How many do you  
19 estimate this will affect?

20          MR. HOOPER: We've run into 20 or 25 a  
21 year. It's more than you'd think. But then, you know,  
22 people are buying mares -- especially people who are  
23 new to Texas may buy mares the previous fall or at the  
24 January sale at Keeneland or at some other -- acquire  
25 them privately and just not be aware of the rules even

1 though they're published in our magazine every month  
2 and we're available to answer any questions.

3 CHAIRMAN ADAMS: Thank you, Mr. Hooper.

4 MR. HOOPER: Thank you.

5 CHAIRMAN ADAMS: Any discussion?

6 The Chair will entertain a motion to  
7 publish the proposed amendment to Rule 303.92 in the  
8 Texas Register for --

9 COMMISSIONER SOWELL: So move.

10 COMMISSIONER EDERER: Second.

11 CHAIRMAN ADAMS: Move and seconded.

12 All those in favor?

13 COMMISSIONERS: Aye.

14 CHAIRMAN ADAMS: Any opposed?

15 The motion carried.

16 The Commission will now have -- take a  
17 lunch break. It's 25 -- 35 minutes after 12:00. We'll  
18 then go into an executive session. And so what would  
19 your estimate be, Ms. King, as to our -- when we would  
20 reconvene the meeting? It would be at least probably  
21 45 minutes to an hour?

22 MS. KING: To an hour, yeah.

23 CHAIRMAN ADAMS: 35 minutes to --

24 MS. KING: Is that going to include the  
25 executive session?

1 CHAIRMAN ADAMS: I'm including the  
2 executive session. At least an hour.

3 MS. KING: Probably.

4 CHAIRMAN ADAMS: Let's give them some  
5 indication because if they're going to go somewhere to  
6 have lunch --

7 MR. FENNER: I'd say an hour and a half,  
8 I believe.

9 CHAIRMAN ADAMS: So we'll shoot for two  
10 o'clock. We'll shoot to be back here roughly at two  
11 o'clock to reconvene the meeting. Thank you all.

12 (Recess from 12:35 p.m. to 2:48 p.m.)

13 CHAIRMAN ADAMS: Okay. It's now 10  
14 minutes till 3:00 and we will reconvene the Texas  
15 Racing Commission meeting on August the 8th. We're  
16 coming back out of executive session.

17 And we have met with our attorneys  
18 regarding the Trinity Meadows lawsuit and the  
19 contemplated litigation against Longhorn Downs under  
20 the Administrative Procedures Act. And we have also  
21 met to discuss and evaluate our executive director now,  
22 not executive secretary -- this is a misnomer here --  
23 our executive director.

24 And with that in mind, I would entertain  
25 a motion to either accept or reject the offer to settle

1 with Trinity Meadows with reference to the bankruptcy  
2 proceedings at this time.

3 COMMISSIONER SOWELL: Mr. Chairman, I  
4 have a motion.

5 CHAIRMAN ADAMS: Okay. Go ahead, sir.

6 COMMISSIONER SOWELL: I move that we  
7 reject the proposal.

8 CHAIRMAN ADAMS: Okay. Do I have a  
9 second?

10 VICE-CHAIRMAN CARTER: Second.

11 CHAIRMAN ADAMS: Okay. It's been moved  
12 and seconded that we reject the proposal to settle.

13 Is there any discussion on that?

14 Hearing none, let's have a roll call  
15 vote.

16 MS. GIBERSON: Mr. Angelo? Sorry.  
17 Ms. Boyd?

18 COMMISSIONER BOYD: Yes.

19 MS. GIBERSON: Mr. Cabrales?

20 COMMISSIONER CABRALES: Yes.

21 MS. GIBERSON: Dr. Carter?

22 VICE-CHAIRMAN CARTER: Yes.

23 MS. GIBERSON: Mr. Archer?

24 MR. ARCHER: Yes.

25 MS. GIBERSON: Mr. Ederer?

1 COMMISSIONER EDERER: Yes.

2 MS. GIBERSON: Mr. Sowell?

3 COMMISSIONER SOWELL: Yes.

4 MS. GIBERSON: Mr. Adams?

5 CHAIRMAN ADAMS: Yes.

6 Okay. The second item discussed was  
7 regarding Longhorn Downs; and we will take no action on  
8 that issue at this time; but as chairman, I would ask  
9 that the agenda -- that the item be put on next month's  
10 agenda, that in the meantime the applicants bring the  
11 staff up to speed on what's actually happening -- and  
12 also, myself, I'd like to be in that loop -- and that  
13 we expect that there be some type of a schedule worked  
14 out that lays out what's going to happen in the very  
15 near future so that we can bring all this issue to a  
16 head as soon as possible.

17 And we are going to put it on the agenda,  
18 if I can get the staff to put it on the agenda for the  
19 next meeting; and if, in fact, we haven't gone a long  
20 ways by that time, then we'll consider an executive  
21 session at that time again as we did today.

22 MR. FENNER: Yes, sir.

23 CHAIRMAN ADAMS: Okay. And the third  
24 item that we discussed was the evaluation of our  
25 executive secretary and that evaluation report has been

1 completed and filled out and signed and will be  
2 submitted. And I will entertain a motion regarding the  
3 executive secretary's salary and to increase that  
4 salary to \$85,536.

5 COMMISSIONER SOWELL: So move.

6 VICE-CHAIRMAN CARTER: Second.

7 CHAIRMAN ADAMS: I have a motion and a  
8 second.

9 Any discussion on that item?

10 COMMISSIONER BOYD: Mr. Chairman?

11 CHAIRMAN ADAMS: Yes.

12 COMMISSIONER BOYD: Would you restate  
13 your salary?

14 CHAIRMAN ADAMS: Okay. As I understand,  
15 \$85,536 is the recommended salary -- max salary --  
16 546? 536? That's a misprint on my agenda. Which is  
17 it?

18 MR. FENNER: 536.

19 CHAIRMAN ADAMS: 536 is correct.

20 COMMISSIONER BOYD: It's a misprint on my  
21 copy.

22 CHAIRMAN ADAMS: It's a misprint on your  
23 copy. Okay. 85,536.

24 COMMISSIONER BOYD: I so move.

25 CHAIRMAN ADAMS: It's been moved and

1 seconded, I believe, and we're in the discussion mode.

2           COMMISSIONER BOYD: I would like to make  
3 some points to the staff and to Charla Ann, if I may.  
4 At last salary adjustment, our executive director  
5 position was authorized by the Legislature in fiscal  
6 year 1998.

7           When we hired Charla Ann two years ago at  
8 that nine-year-old salary level, we thought that she  
9 would be getting at least the two across-the-board  
10 increases that were set for all State employees; but  
11 unfortunately for her, we discovered that the exempt  
12 positions were not eligible for the four percent fiscal  
13 year '06 or the three percent fiscal year '07 and that  
14 she would not be eligible for the upcoming two percent  
15 raise.

16           So as you know, during the last past  
17 legislative session, former Chairman Rogers asked for  
18 that position to be reclassified from Group 2 to Group  
19 4 because of the skill set required for this job. That  
20 is, not only being able to manage an agency but also  
21 having to work knowledge -- having a working knowledge  
22 of a very complex industry. He asked that the  
23 Commission be given the authority to align the salary  
24 with the responsibilities.

25           Although the reclassification remains at

1 that same level, a 2, the Legislature did give the  
2 Commission the authority to increase this salary from  
3 \$77,760 to \$85,536, which is a 10 percent increase.

4           The other comment I want to say is that I  
5 think we need to continue to plug away at that level  
6 increase. I think that it will increase our influence,  
7 our agency's influence, as it stands with other  
8 agencies in the industry. I think it's important for  
9 us to plug away because of recruitment. And for that  
10 reason, I am totally for this increase and I think we  
11 still need to pursue the adjustment of our level to a  
12 higher level.

13           CHAIRMAN ADAMS: Okay. Any other  
14 comments?

15           All those in favor please say aye.

16           COMMISSIONERS: Aye.

17           CHAIRMAN ADAMS: Any opposed?

18           The motion carries.

19           The last item on our agenda then will be  
20 the consideration of the next Commission meeting. And  
21 the staff has gone to great length to try to find a  
22 day; and as it turns out, October the 4th is the only  
23 day we can get a quorum in that spectrum between the  
24 end of September and the first of October.

25           October the 4th we have six Commissioners

1 committed, and so I'm going to ask that we set that  
2 date or consider that date unless there's some other  
3 suggestions by anybody.

4 Jimmy, you have a conflict on that date.

5 MR. ARCHER: Yeah.

6 MR. FENNER: The Commissioners who would  
7 not be able to be available for that day include  
8 Commissioner Archer, Commissioner Cabrales --

9 MR. ARCHER: I might be able to make it  
10 back for that. I may be back Wednesday night. I may  
11 be back sooner than I think.

12 CHAIRMAN ADAMS: That's great. And we  
13 haven't talked to Dyke yet, so there's a chance we may  
14 be able to get Dyke as well. So let's -- if there's no  
15 problem with that, let's set that date. Okay?

16 Having heard that, I close the meeting  
17 and I thank you for your time.

18 (Proceedings concluded at 2:56 p.m.)

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1 STATE OF TEXAS )

2 COUNTY OF TRAVIS )

3

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

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

14 GIVEN UNDER MY OFFICIAL HAND OF OFFICE at Austin,  
15 Texas, this 15th day of August, 2007.

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SHERRI SANTMAN FISHER, Texas CSR 2336  
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