

BEFORE THE
TEXAS RACING COMMISSION
AUSTIN, TEXAS

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COMMISSION MEETING
NOVEMBER 15, 2011

BE IT REMEMBERED that the above entitled matter came on for hearing on the 15th day of November, 2011, beginning at 10:44 A.M. at the John H. Reagan Building, 105 West 15th Street, Room 140, Austin, Travis County, Texas, and the following proceedings were reported by SHERRI SANTMAN FISHER, Certified Shorthand Reporter for the State of Texas.

APPEARANCES

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Commissioners: ROBERT SCHMIDT
 RONALD F. EDERER
 MIKE MARTIN
 GLORIA HICKS
 SCOTT HAYWOOD
 VICKI WEINBERG
 JOHN T. STEEN, III
 ANN O'CONNELL

1 CHAIRMAN SCHMIDT: The time now is 10:44
2 and I'd like to call this meeting of the Texas Racing
3 Commission to order. We certainly all welcome the
4 delay due to the rain.

5 Ms. Cook, could you please call the
6 roll?

7 MS. COOK: Yes, sir.

8 Commissioner Ederer?

9 COMMISSIONER EDERER: Present.

10 MS. COOK: Commissioner Haywood?

11 COMMISSIONER HAYWOOD: Here.

12 MS. COOK: Commissioner Hicks?

13 COMMISSIONER HICKS: Here.

14 MS. COOK: Commissioner Martin?

15 COMMISSIONER MARTIN: Here.

16 MS. COOK: Commissioner O'Connell?

17 MS. O'CONNELL: Here.

18 MS. COOK: Commissioner Polunsky?

19 Commissioner Steen?

20 COMMISSIONER STEEN: Here.

21 MS. COOK: Commissioner Weinberg?

22 COMMISSIONER WEINBERG: Here.

23 MS. COOK: And Chairman Schmidt?

24 CHAIRMAN SCHMIDT: Present.

25 Do we have a quorum?

1 MS. COOK: Yes, sir, we do.

2 CHAIRMAN SCHMIDT: Thank you.

3 The first item, I'd like to welcome John
4 Steen to the Commission. Mr. Steen is a graduate of
5 Vanderbilt University. He went to business school at
6 Wharton School of Business in Philadelphia and also has
7 a Master's of Arts in international studies from the
8 University of Pennsylvania.

9 So we welcome you. You're clearly
10 overqualified. It's a pleasure to have you on the
11 Commission. Do you have any comments or words to the
12 Commission?

13 COMMISSIONER STEEN: Thank you,
14 Chairman. I just wanted to say that I'm honored to
15 serve the State of Texas in this capacity. I know that
16 Rolando will be greatly missed and I want to thank him
17 personally for his service. I look forward to getting
18 up to speed quickly to be an effective member of this
19 Commission and I look forward to working with everyone
20 for the betterment of Texas racing. Thank you.

21 CHAIRMAN SCHMIDT: We have a great
22 group. You'll certainly be a wonderful addition.
23 You're very welcome.

24 Next, actually I'm going to come forward
25 and ask Chairman Pablos to stand. Why don't you face

1 the audience, Rolando. Good to see you again.

2 As you may recall, Commissioner Pablos
3 was first appointed to the Racing Commission in two
4 thousand -- October of 2007. Right. Within a year he
5 had arrived and was appointed chairman by Governor
6 Perry of the Texas Racing Commission and served with
7 great distinction.

8 I had the good fortune to serve under
9 him; and I think the three characteristics I remember
10 most under Chairman Pablos were efficiency,
11 thoroughness, and total transparency. And those have
12 certainly guided me going forward.

13 I think, Rolando, you made great use of
14 the subcommittees. I think that allowed us to take
15 care of a lot of business very quickly. I think
16 subcommittees also allowed great interaction and great
17 transparency and those are real characteristics which I
18 think served the Commission well.

19 History has a short memory. Chairman
20 Pablos was chairman for a relatively brief period of
21 time, yet during this time he served through two
22 legislative sessions and two sunset reviews. Since
23 that time, our entire way of financing the Racing
24 Commission has completely changed, from a somewhat
25 variable and unstable outs technique to a much more

1 stable system. He oversaw the purchase of one
2 greyhound track and also our two division -- Class 1
3 racetracks, Sam Houston and Lone Star. That's
4 certainly a great accomplishment.

5 We wish you well and we thank you very
6 much for everything you did for us.

7 MR. PABLOS: Thank you very much.
8 Appreciate it.

9 Thank you. Well, Dr. Schmidt, you're
10 hired as my publicist. Thank you very much.

11 Well, you know, it has been four years
12 since I started here; and as many of you remember, it
13 was kind of a quick start. I was brought on; and ever
14 since then, I knew that this was a very special place.

15 To the Commissioners, I want to thank you
16 for believing in me and for working together, for
17 caring about the industry, for doing what's right for
18 Texas in a transparent way, in a fair way.

19 To staff, thank you very much. You know,
20 this last year has been a wonderful year at the staff
21 level. The professionalism and really the way that
22 things have been handled is above what I expected. And
23 so, Chuck, thank you very much for your leadership.
24 Mark, you as well. Thank you very much for all the
25 support you gave me and the Commission.

1 And to the industry, I just want you to
2 know that you have an excellent Commission up here.
3 You have folks who care about the industry. You have
4 folks who understand the situation. But at the same
5 time I ask you to, you know, remember that that's why
6 they call us regulators. We have to regulate. We have
7 to balance. And so, you know, I look forward to seeing
8 everybody working together.

9 You know, when I first stepped in, we had
10 extremely long meetings with a lot of bickering; and
11 I'm glad to see that that's gone away and we now work
12 at a different level. And so I look forward to
13 seeing -- Dr. Schmidt, seeing you take this Commission
14 to the next level.

15 So I thank you very much and I look
16 forward to seeing you. If you all have any utility
17 concerns, please come see me across the street. I hope
18 you don't because that's a whole other, you know, ball
19 of wax. I'm in the Allan Polunsky career path of just
20 going from one frying pan into the next and so now I'm
21 over at the PUC and please let me know if there's
22 anything I can do for you.

23 Appreciate it. Thank you.

24 CHAIRMAN SCHMIDT: Thank you.

25 MR. PABLOS: Thank you all very much.

1 CHAIRMAN SCHMIDT: We have now two cards
2 for public comment. Ms. Cook, are there any other
3 cards?

4 MS. COOK: No, sir.

5 CHAIRMAN SCHMIDT: Okay. Mr. Trapp?

6 MR. TRAPP: Good morning, ladies and
7 gentlemen. I thank you for the rain. My name is Bob
8 Trapp and I am the president of Austin Greyhound
9 Adoption. I have been involved in greyhound adoption
10 in the State of Texas for over 25 years.

11 Almost 19 years ago to the day, Gulf
12 Greyhound Park opened its doors. To them, and I have
13 to assume to you as well, they promised certain
14 standards and certain criteria that they would perform
15 and do to enhance greyhound racing in the great State
16 of Texas.

17 At that time that track was one of the
18 premier facilities for racing in the United States.
19 Myself and the other 200 groups were very envious of
20 the State and what Gulf Greyhound said they were going
21 to do for us and the greyhound industry.

22 It is a consensus of opinion of the
23 greyhound groups in the state that they have somewhere
24 fallen a little short from the standards and goals that
25 they had set some 19 years ago. And I know you guys

1 are in a tough spot because you have to -- you have to
2 help everybody on both sides of the coin. But the
3 greyhound adoption industry would please encourage you
4 to give them back or help them get back to the
5 standards that they said they were going to set some 19
6 years ago.

7 The other thing that kind of annoys us is
8 that we've got people like Grey2K coming in here
9 telling us how to run our state, its racing program,
10 and how to run its facilities. And we don't think
11 that's right. We think that the great State of Texas
12 should take care of its own and we know that you guys
13 have the power and the ability to do that.

14 Thank you for your time.

15 CHAIRMAN SCHMIDT: Thank you, Mr. Trapp.

16 And Ms. Lana Henley?

17 MS. HENLEY: Yes. Good morning. My name
18 is Lana Henley and I am an adopter of retired racing
19 greyhounds.

20 I began adopting these beautiful dogs 11
21 years ago. Now, that's not a very long time for some
22 of the folks in this room; but until now, up to now,
23 I've owned six and I plan to own a whole lot more.
24 When I adopted 12 years ago, I didn't know much about
25 greyhounds, but I fell in love with them immediately

1 and that led me to educating myself about them.

2 Of course, the first place to start was
3 the breed and its history. And I loved hearing about
4 the breed and how wonderful it has evolved until this
5 point. The second thing I wanted to learn about was
6 life on a greyhound farm. And I've done that. The
7 third thing is then I began to have questions or be
8 curious about the actual tracks in Texas, actually
9 tracks all over the United States, but especially here
10 in Texas.

11 And I'm concerned. I've seen a lot of
12 crippled dogs. And based on the Commission's
13 statistics, I'm really concerned about Gulf Greyhound
14 Park. I love these dogs and I'll do anything for them
15 and for their safety. And I want -- I hope this
16 Commission will get down and dirty with Gulf Greyhound
17 Park and require, mandate, that they live up to what
18 they should be, a great safe place for the sport of
19 greyhound racing.

20 Thank you.

21 CHAIRMAN SCHMIDT: Thank you,
22 Ms. Henley.

23 As I told you before the meeting, public
24 comment does not allow discussion among the
25 Commissioners. I do want to make sure you both

1 understand, though, the Commission hears you both loud
2 and clear. The safety of these animals is a paramount
3 concern of ours. And I appreciate your comments.

4 Now moving to general business, a report
5 by the executive director and staff regarding
6 administrative matters. First I'll recognize Shelley
7 Harris-Curtsinger to discuss budget and finance
8 update.

9 MS. HARRIS-CURTSINGER: Good morning,
10 Commissioners.

11 Under Section IV, pages one through four,
12 you will find an update of the agency's fiscal year
13 2011 budget status as of November 2nd, 2011. With 98
14 percent of the expenditures being reported, the agency
15 is finalizing fiscal year 2011 and is paying for any
16 remaining outstanding expenditures.

17 I'll be happy to answer any questions.

18 CHAIRMAN SCHMIDT: Do the Commissioners
19 have any questions of Shelley?

20 Okay. Thank you.

21 A report on racetrack inspections,
22 Mr. Sammy Jackson. Mr. Jackson?

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

24 Commissioners, on page IV-5 of your
25 agenda packet, you'll find the report on racetrack

1 inspection activities as of November 15th, 2011.

2 The report reflects that staff conducted
3 one pari-mutuel wagering inspection resulting in no
4 unsatisfactory items, one safety and security
5 inspection resulting in no unsatisfactory items, two
6 veterinary inspections resulting in no unsatisfactory
7 items, one greyhound judge inspection resulting in four
8 unsatisfactory items, and one horse steward inspection
9 resulting in no unsatisfactory items.

10 The four unsatisfactory items from the
11 greyhound judge inspection have had a remediation plan
12 submitted by the racetrack November 9th, 2011. A
13 follow-up inspection will be performed later this month
14 on these items and a report of the follow-up inspection
15 will be included with the next Commission update to the
16 Commissioners.

17 This concludes my report. If you have
18 any questions, I'll do my best to answer them.

19 CHAIRMAN SCHMIDT: Are there any
20 questions of Mr. Jackson by any of the Commissioners?

21 Thank you.

22 Then, Mr. Jackson, can you go back to
23 wagering statistics?

24 MR. JACKSON: Yes, sir, I'm more than
25 happy to.

1 Commissioners, on page IV-6 through IV-8
2 of your packet, you will find the report on wagering
3 statistics for the period of January 1st through
4 November 6th for both 2010 and 2011. This report is
5 inclusive of the Breeders' Cup weekend.

6 The report reflects that 2011 wagering
7 activity has declined on each wagering data point
8 tracked as compared to 2010.

9 The following are the overall declines in
10 wagers: Live wagering, by approximately five percent;
11 simulcast same species wagering, by approximately 12.1
12 percent; simulcast cross-species wagering, by
13 approximately 9.7 percent; export of wagering on Texas
14 races by entities outside of Texas, by approximately
15 24.6 percent.

16 This concludes my report. If you have
17 any questions, I'll do my best to answer them.

18 CHAIRMAN SCHMIDT: Any questions of
19 Mr. Jackson? Comments?

20 Thank you, Mr. Jackson.

21 Enforcement report. Mr. Trout?

22 MR. TROUT: Good morning, Commissioners.
23 Deputy Director Gougler couldn't be with us this
24 morning, but his report is on page IV-9. There are no
25 statistics there of any concern at this time.

1 If you have any questions, I'll answer
2 them for you.

3 CHAIRMAN SCHMIDT: Great.

4 Do any Commissioners have any questions
5 of Mr. Trout regarding enforcement issues? It's fairly
6 straightforward.

7 Thank you, Chuck. Thank you, Mr. Trout.

8 And then we next have the report of the
9 ad hoc committee on rules to implement HB 2271 and the
10 committee on rules. And I will move those to later in
11 the agenda when it's more relevant to the topics
12 discussed.

13 The next agenda item is election of a
14 vice-chair. As you know, we are now without a
15 vice-chair and I'll certainly entertain nominations of
16 the Commissioners to serve as the vice-chair. You can
17 nominate yourself. Any nominations?

18 Ms. Hicks?

19 COMMISSIONER HICKS: I'd like to nominate
20 Ron Ederer for the vice-chair.

21 CHAIRMAN SCHMIDT: Is there a second?

22 COMMISSIONER MARTIN: Second.

23 CHAIRMAN SCHMIDT: Second.

24 Any further nominations? Any further
25 discussion?

1 There's been a nomination and second for
2 Mr. Ederer to serve as vice-chair. I'll call this for
3 a vote. All those in favor signify by saying aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN SCHMIDT: Opposed?

6 Congratulations, Mr. Vice-Chairman. Good
7 choice. Great. The motion has been carried and Ron
8 Ederer is now the vice-chairman.

9 Moving forward, Item H, approval of the
10 Commission's operating budget for fiscal year 2012.

11 Shelley?

12 MS. HARRIS-CURTSINGER: Commissioners,
13 under Section IV, pages 10 and 11, you will find the
14 fiscal year 2012 operating budget the agency is
15 proposing.

16 The committee on finance held meetings on
17 July 26, 2011, and September 7th, 2011, under the
18 direction of Commissioners Ederer and Hicks.

19 Suggestions were made for additional budgetary savings
20 and cuts and these were addressed. In addition,
21 discussion took place as to the implementation and time
22 frame of the sunset changes.

23 The budget before you is representative
24 of these meetings and discussions. The proposed budget
25 is also representative of the changes to Section 309.8

1 of the agency's rules approved for proposal at the
2 September 21st, 2011 Commission meeting and are on the
3 agenda for adoption today.

4 The proposed budget is 8.2 million, which
5 includes 4.1 million in operating budget and an
6 estimated 4.1 million for the Texas-bred fund, with
7 53.1 FTE's. The Legislature approved an appropriations
8 level of 8.6 million and 61.3 FTE's that includes the
9 restoration of the 10 percent reduction. The agency is
10 not asking for the restoration nor do we anticipate
11 needing appropriations for the use of the new horse
12 racetrack rider.

13 I request that you approve the budget for
14 the agency and I will be happy to answer any
15 questions.

16 CHAIRMAN SCHMIDT: Thank you, Shelley.

17 Are there any technical questions or any
18 questions of Shelley by any of the Commissioners? Any
19 further discussion?

20 I'll certainly entertain a motion to
21 approve the budget.

22 VICE-CHAIRMAN EDERER: Make a motion that
23 the budget be approved.

24 CHAIRMAN SCHMIDT: A motion made by
25 Ederer.

1 Second?

2 COMMISSIONER HICKS: Second.

3 CHAIRMAN SCHMIDT: Seconded by Hicks.

4 There's a motion and a second to approve
5 the 2012 Commission operating budget. I'll call this
6 to a vote. All those in favor signify by saying aye.

7 COMMISSIONERS: Aye.

8 CHAIRMAN SCHMIDT: Anyone opposed?

9 The budget is approved.

10 Item I, approval of a memorandum of
11 understanding with the Texas Veterinary Medical
12 Diagnostic Lab, we're going to move this item to
13 February because some issues still need to be resolved
14 there.

15 Proceedings on racetracks, a request by
16 Gulf Greyhound to amend its 2011 live racing schedule.

17 Is Sally Briggs here?

18 MS. BRIGGS: Yes, sir.

19 CHAIRMAN SCHMIDT: Ms. Briggs, do you
20 mind going over this item with us and lay it out for
21 us?

22 MS. BRIGGS: I'd be happy to. Thank
23 you.

24 Good morning, Commissioners. We have had
25 two kennels that pulled out in October because of

1 financial reasons. We have another kennel that their
2 last day to race will be November 19th. They are
3 taking their kennel to the Valley to run for those five
4 days. So we are going to have a shortage of
5 greyhounds.

6 We are requesting to go from six
7 performances to five performances beginning on the
8 Saturday after Thanksgiving, which is the 26th of
9 November, through December 31st. Our matinee on
10 Saturday consists of 13 races. We would like to move
11 four of those races to the evening performance, which
12 we will have our regular 13 races on our evening
13 performances on Saturday plus four what we call
14 twilight performance, which would be four more races
15 which would not make us cancel all of the 13 races for
16 the matinee.

17 We are at this time taking kennel
18 applications. As you all are aware, we have applied
19 and been approved for six performances in 2012 and we
20 want to be able to run with that many performances. So
21 we are in the process of taking kennel applications.

22 CHAIRMAN SCHMIDT: Are there any
23 questions of Ms. Briggs by any of the Commissioners?

24 Any public -- thank you very much,
25 Sally. I'm sorry. Thank you very much.

1 We do have a request for public comment
2 by Mr. John Dalton with the Texas Greyhound
3 Association.

4 Mr. Dalton?

5 MR. DALTON: Good morning, Mr. Chairman,
6 Commissioners. My name is John Dalton. I am the
7 vice-president for the Texas Greyhound Association.
8 And I appreciate the opportunity to address you this
9 morning in regards to the proposed reduction of race
10 dates at Gulf Greyhound for the remainder of the year.

11 Any reduction in racing opportunity is
12 obviously a serious concern to a breeders association;
13 and while we recognize that there may be a temporary
14 shortage of greyhounds at Gulf at the moment, elevated
15 by the recent departure of several kennels, we contend
16 that the underlying situation with the race surface is
17 a major component of this shortage.

18 We have -- I apologize. There is a
19 performance standard established by the Commission
20 which has been in place for quite some time that has
21 not been reached. When this situation exists, it has a
22 negative impact on the number of race dogs available at
23 the racetrack which are presently there and it also is
24 a disincentive for kennel operators to bring their dogs
25 to participate and for greyhound owners to lease their

1 animals.

2 The TGA recently submitted a proposal to
3 Gulf Greyhound to contract for the maintenance of the
4 racing surface. This proposal was rejected. And
5 subsequently Gulf has communicated their intent to
6 bring in a consultant to aid with this problem. And
7 while we support any action towards the resolution of
8 this situation, we feel that the time has come for any
9 and all efforts to ultimately conclude in the
10 achievement of the performance standard as set by the
11 Commission. We feel that this time is past due.

12 This is not just a serious financial
13 consideration for our breeders, but it is a highly
14 emotional one. Most of our breeders have had their
15 greyhounds from birth. And as anybody that is in the
16 livestock industry in any facet will tell you, it is a
17 24/7 job. We are on call at 2:00 in the morning or in
18 the middle of Christmas dinner if the situation
19 mandates. If a situation occurs on our farm that we
20 find to be a detriment to our animals, that is
21 rectified immediately. And we ask no less of our
22 racetracks.

23 We have worked -- we have reached out and
24 worked with Commission staff and Gulf to reach a
25 lasting solution to this problem and we feel sure that

1 if this situation is rectified, Gulf will not have a
2 problem in the future to attract kennels and dogs to
3 fulfill our race date allocations.

4 If it is not, then we feel that this
5 situation will continue and we will probably be back
6 here at a later date asking for a further reduction in
7 racing opportunity, which is not something that we
8 want.

9 In the short term, the TGA does not have
10 an objection to this reduction in race dates. We do
11 look forward to resuming our full schedule at the first
12 of the year. And more so than that, we look forward to
13 the performance standard established by the Commission
14 being achieved and maintained at that time.

15 Thank you for your time.

16 CHAIRMAN SCHMIDT: Are there any
17 questions of Mr. Dalton? Commissioner Weinberg?

18 COMMISSIONER WEINBERG: Would you mind
19 being a little bit more specific on the issues of the
20 track and what the problem is and what you think needs
21 to be done?

22 MR. DALTON: The performance standard
23 that I referred to is in regards to the number of dogs
24 that are injured in a particular time period or a
25 particular number of starts. And those statistics are

1 with the Commission and are reported on a weekly
2 basis. When it exceeds that, we contend that that is
3 primarily a racetrack surface issue.

4 We have had lengthy discussions over a
5 long period of time and, as I said, have worked closely
6 with Commission staff and with Gulf, but we have not
7 achieved the performance standard. The goal obviously
8 would be first to achieve it and then to improve on
9 it. But we do not seem to be making the headway that
10 we should and that is contributing to kennels leaving
11 because this issue is, as I said, not only an emotional
12 one, but also a financial one.

13 It goes to the bottom-line viability of
14 any racing operation or any breeding operation. And
15 obviously it also has the potential to be a black mark
16 on our industry. We don't want to see dogs going into
17 adoption that have been seriously injured. We want
18 them to go in healthy and retiring in the natural
19 course of their life.

20 Does that answer your question?

21 COMMISSIONER WEINBERG: A little bit. I
22 was just wanting a little bit more specific of an
23 answer. A surface issue?

24 MR. DALTON: We find that it's mostly a
25 surface issue. We don't -- we don't see this as being

1 a complicated solution. In our opinion, it's not a big
2 financial fix. It's not about throwing money at the
3 problem. It's about an attitude. And the key player
4 in this will be the track superintendent.

5 We think that is the solution to this
6 situation. It needs to be an individual that is both
7 competent and cares. We don't think that it's, by any
8 means, a minimum wage job. We think this is a very
9 important position. We think the salary for this
10 position should be commensurate with the job. If you
11 want to hire that level of a quality applicant, you
12 have to -- you have to put that out there. And then he
13 has to be held accountable as he would if he worked on
14 any farm across the state.

15 We all have schooling tracks that we work
16 on every day; and if we can maintain our schooling
17 tracks to a standard that this is not an issue, as I
18 said, we ask no less of our racetracks.

19 COMMISSIONER WEINBERG: Thank you.

20 MR. DALTON: You're welcome.

21 CHAIRMAN SCHMIDT: Any other questions of
22 Mr. Dalton?

23 VICE-CHAIRMAN EDERER: Mr. Dalton, you
24 have no objection to the request by the track to lose
25 these dates at this time on a temporary basis.

1 MR. DALTON: No, I do not have an
2 objection to the short-term reduction because, as
3 Ms. Briggs said, three kennels have left. I just want
4 to be clear on how big a part this other issue is in
5 the shortage of dogs and the departure of kennels and
6 the difficulty in attracting new kennels to come to a
7 facility when this is an issue.

8 It's one of probably the three major
9 components to a kennel operator making a decision on
10 where he wants to run his dogs and on a breeder making
11 a decision on where he wants to run his dogs. You
12 know, the money is all fine; but if your dog is
13 injured, the money is irrelevant because you don't get
14 any of it.

15 VICE-CHAIRMAN EDERER: Thank you.

16 CHAIRMAN SCHMIDT: Any other questions?

17 Mr. Dalton, just to keep you informed, as
18 I told the speakers earlier, A, we hear you; and B,
19 this is a priority.

20 MR. DALTON: I understand.

21 CHAIRMAN SCHMIDT: And C, this will not
22 continue. This injury rate will not continue. It's my
23 understanding now a consultant has been called in to
24 evaluate the track surface.

25 MR. DALTON: That's correct.

1 CHAIRMAN SCHMIDT: And the track
2 superintendent and track manager has changed. Is that
3 correct?

4 MR. DALTON: That is correct. And we
5 applaud -- we applaud and support any efforts.

6 CHAIRMAN SCHMIDT: And I've read the
7 correspondence back and forth. And both sides make
8 good points. I think you can understand some concern
9 about, when you sublease track management to a group,
10 the perception by the betting public is that maybe the
11 inside lane is a little harder, a little firmer, than
12 the outside lane. I'm not alleging that would occur.
13 I'm just saying there's a concern there.

14 MR. DALTON: Let me say this. The TGA
15 would prefer not to be involved in that in that way.
16 That proposal was made because we're running out of
17 other options.

18 CHAIRMAN SCHMIDT: I understand that.

19 MR. DALTON: We would prefer our breeders
20 and our owners and our kennel operators breed and run
21 their kennels and do what it is that we do. And then
22 we would prefer that the track take care of that to our
23 satisfaction, to your satisfaction, to the satisfaction
24 of everybody, and which will ultimately be a
25 win-win-win across the board. We don't have to deal

1 with negative press. We don't have to -- we don't give
2 ammunition to the anti-racing component that is out
3 there.

4 It's not a difficult fix. And we, you
5 know, probably applaud the bringing in of a consultant
6 and any other efforts. Those efforts at this point
7 need to result in the performance standard being
8 achieved because if we don't achieve the goal, the
9 effort only has so much value.

10 CHAIRMAN SCHMIDT: I agree with you. I
11 think I also want to let you -- make you aware that
12 we're going to appoint a special committee, greyhound
13 safety committee, chaired by Mrs. Hicks, with also
14 Dr. Martin, and I've asked Dr. Quirk to serve on this
15 committee, to evaluate our data, evaluate our injury
16 rate, and follow the progress of this as we move
17 forward. We're certain we can address this issue once
18 and for all. And so our situation is like -- everyone
19 in this room aspires to be exemplary, not just average,
20 exemplary.

21 MR. DALTON: I agree.

22 CHAIRMAN SCHMIDT: Thank you.

23 Any other questions?

24 MR. DALTON: Thank you very much.

25 Appreciate your time.

1 CHAIRMAN SCHMIDT: Any other public
2 comment?

3 Any other discussion by the Commission?

4 I'd certainly entertain a motion
5 regarding the request by Gulf Greyhound to amend its
6 2011 live racing schedule as stated by Ms. Briggs.

7 COMMISSIONER HICKS: I'll make the
8 recommendation.

9 CHAIRMAN SCHMIDT: A motion made by
10 Hicks.

11 COMMISSIONER WEINBERG: Second.

12 CHAIRMAN SCHMIDT: Second by Weinberg.

13 Any further discussion?

14 I'll entertain a vote. All those in
15 favor please signify by saying aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN SCHMIDT: Anyone opposed?

18 The motion is carried and the live racing
19 schedule is changed.

20 Allocation of the Texas Greyhound
21 Association interstate cross-species purse money.

22 Mr. Jackson, can you provide us with the details for
23 this issue --

24 MR. JACKSON: Yes, Mr. Chairman. Thank
25 you.

1 CHAIRMAN SCHMIDT: -- and lay out the
2 item for us? Thanks.

3 MR. JACKSON: Commissioners, under Tab
4 V-3 of the agenda packet, you will find a letter from
5 the Texas Greyhound Association proposing an allocation
6 formula to distribute purse money the TGA collects from
7 Texas horse racetracks simulcasting out-of-state
8 greyhound signals in accordance with 6.091(d) of the
9 Texas Racing Act.

10 Staff estimates 1.4 million in purse
11 funds will be generated in 2012 that will have to be
12 allocated via the formula required to be submitted by
13 the TGA for approval by the Commission. The TGA's
14 proposed formula would allocate 100 percent of all
15 greyhound cross-species purse money to Gulf Greyhound
16 Park for 2012. This allocation supports the 2012
17 greyhound race date calendar approved by the Commission
18 during a previous Commission meeting on September 21st,
19 2011. As you may recall, only Gulf Greyhound Park
20 requested race dates in calendar year 2012.

21 Additionally, I have spoken to the
22 greyhound racetrack operators of all three tracks and
23 each of them support the proposed formula allocation
24 for 2012 submitted by the Texas Greyhound Association.

25 If you have any questions, I'd be more

1 than happy to answer them.

2 CHAIRMAN SCHMIDT: Thank you, Sammy.

3 Any further questions of Mr. Jackson
4 regarding the proposal? Technical questions?

5 Okay. Mr. Dalton, you're signed up to
6 speak again.

7 MR. DALTON: No, I don't believe so.

8 CHAIRMAN SCHMIDT: Okay. Is there any
9 public comment?

10 Okay. Any further discussion by the
11 Commission? Comments, questions?

12 Okay. I'll certainly entertain a motion
13 to approve the allocation as proposed.

14 VICE-CHAIRMAN EDERER: So move.

15 COMMISSIONER HAYWOOD: So move.

16 CHAIRMAN SCHMIDT: A motion by
17 Mr. Haywood, seconded by Ederer.

18 VICE-CHAIRMAN EDERER: Second.

19 CHAIRMAN SCHMIDT: Any further
20 discussion?

21 All those in favor of the motion signify
22 by saying aye.

23 COMMISSIONERS: Aye.

24 CHAIRMAN SCHMIDT: Anyone opposed?

25 Okay. The motion regarding the

1 allocation of the Texas Greyhound Association as
2 presented has been carried.

3 Proceedings on rulemakings. Mark Fenner,
4 can you lay out the proposed rules for us?

5 MR. FENNER: Yes, sir. If you don't
6 mind, I'd like to cover the first five at the same
7 time, just walk through them.

8 CHAIRMAN SCHMIDT: Yes, sir. We can take
9 them all as one vote unless there's an issue.

10 MR. FENNER: The first rule proposal is a
11 proposal to amend 311.5, License Categories and Fees.
12 There's been a change in the -- through the sunset
13 process, a change to the Racing Act that says that
14 racetrack employees only need to be licensed by us if
15 they have the ability to affect wagering and
16 pari-mutuel racing or if they have significant access
17 to the backside or other secured area of the
18 racetrack.

19 This proposal defines the categories that
20 would need to be licensed if they are a racetrack
21 employee. It has been run through the sunset rules
22 committee. It's been before the rules committee. The
23 industry has looked at it and seems to agree that these
24 are the appropriate categories for licensure. So staff
25 would recommend that this be published in the Texas

1 Register for public comment.

2 The next two rules that are up for
3 proposal are amendments to Rule 311.104, Trainers, and
4 313.50, Horse Identifier. We discovered in the field
5 that there were some issues with horses -- male horses
6 being altered, neutered, and yet it wasn't being
7 reflected in the program. It wasn't being reflected in
8 the registration papers.

9 And so these proposals intend to clearly
10 place a responsibility on the trainer to report the
11 correct sex of every horse in his care to the
12 Commission veterinarian and to the horse identifier.
13 And then the horse identifier is now going to be
14 responsible for correcting any inaccuracies in the
15 registration paper and ensuring that the program
16 accurately reflects each horse's gender.

17 The proposal to amend Rule 313.308,
18 Restrictions on Subsequent Use, is a modification to
19 the claiming rule that's been brought forward by the
20 Texas Thoroughbred Association.

21 Presently what the rule says is that if a
22 horse is claimed, he may not leave that meet to go race
23 elsewhere. He must race only at the meet in which he
24 was claimed until that meet is ended and then he's free
25 to go somewhere else. However, with the few number of

1 stakes races that are available now in Texas, the TTA
2 has proposed that a horse be allowed to leave the meet
3 solely for the purpose of participating in a stakes
4 race at another racetrack.

5 This has been to the rules committee as
6 well. It seems to be supported.

7 Then finally, the proposal to amend
8 321.21, Certain Wagers Prohibited, adopts a provision
9 of the new sunset bill that clearly prohibits
10 businesses from accepting wagers from Texas residents
11 anywhere other than at a racetrack. This is intended
12 to let advance deposit wagering companies know that
13 they shouldn't be taking these wagers over the
14 telephone or over the Internet.

15 Those are the proposals that are before
16 you today for publication in the Texas Register.

17 CHAIRMAN SCHMIDT: Are there any
18 questions of a technical nature of Mr. Fenner by any of
19 the Commissioners?

20 Okay. Public comment. One gentleman is
21 David Hooper. We welcome you back. He has signed up
22 to speak on Rule 313.308.

23 MR. HOOPER: Mr. Chairman, members of the
24 Commission, I'm David Hooper, the executive director of
25 the Texas Thoroughbred Association.

1 And first, on behalf of TTA, I want to
2 congratulate you, Chairman Schmidt and new Vice-Chair
3 Ederer, on your new responsibilities. You both come to
4 them with a lot of experience and knowledge here on the
5 Commission. And on behalf of TTA, I welcome you,
6 Commissioner Steen, and I want you to know that we have
7 mutuel ties to the University of Pennsylvania and I'm
8 proud of that.

9 As legal counsel stated, the Texas
10 Thoroughbred Association initiated this rule
11 amendment. It does have the support of the Texas
12 Quarter Horse Association as well as the Texas
13 Horsemen's Partnership.

14 Rule 313.308 prohibits a horse claimed at
15 a Texas track from racing at another Texas track or an
16 out-of-state track until the end of the race meet at
17 which the horse was claimed. The proposed change would
18 add language at the end of the provision after the
19 words "at which the horse was claimed" as follows:
20 "Except in a stakes race after verification of the
21 stewards".

22 There are four reasons behind this
23 proposed change. In recent years there's been a
24 significant cutback in the number of stakes races at
25 Texas tracks, both Texas-bred stakes as well as open

1 stakes.

2 Second, the reduction in stakes at the
3 Class 1 tracks have cost Texas breeders many
4 opportunities for their horses to finish first, second,
5 or third in stakes worth \$50,000 or more, which earns
6 what we call black type. When a horse runs first,
7 second, or third in a stakes race and that horse itself
8 or relatives to that horse are cataloged in the sale,
9 stakes races appear in black type.

10 Third, the changes in the 2011 and 2012
11 Thoroughbred racing dates have further limited the
12 opportunities for owners of three-year-olds and older
13 horses in particular to earn black type at Retama Park
14 because the stakes schedule in 2010 and 2011 were
15 limited to four races for two-year-olds. One of those
16 was -- two of those were restricted. And that's likely
17 to be the schedule again in 2012. So your older horse
18 population has no chance to earn any kind of black type
19 at Retama.

20 Fourth, in addition, Retama's 2012
21 Thoroughbred season accounts for a quarter of the
22 year. While there are only 26 dates, they run from
23 early October to the end of the year, over 13 weeks.
24 And to restrict claimed horses to stay at Retama that
25 long a period of time is counterproductive if that

1 horse has improved enough that it might be competitive
2 in a stakes race elsewhere, including out of state.

3 Approving the proposed amendment would
4 make Texas rules similar to Oklahoma and Louisiana. In
5 Oklahoma, claimed horses are allowed to race in a
6 stakes race in another state with permission of the
7 stewards. In Louisiana, a claimed horse may race in a
8 stakes race in another state with special permission of
9 the Commission. And my contact with the assistant
10 executive director at the Louisiana Racing Commission
11 indicated they had never turned down a request to run a
12 claimed horse elsewhere.

13 I'd be happy to try and answer any
14 questions.

15 CHAIRMAN SCHMIDT: Any questions of the
16 Commissioners of Mr. Hooper?

17 Thank you, David. Thank you very much.

18 MR. HOOPER: Thank you.

19 CHAIRMAN SCHMIDT: Commissioner
20 O'Connell, Commissioner Haywood, again, we always
21 appreciate your service to the Commission. Any
22 comments or insights regarding any of these rule
23 changes?

24 MS. O'CONNELL: That last rule, I think
25 we talked about at the meeting, was designed to protect

1 the racetracks. And the tracks were present at
2 these -- at the meetings where this rule was discussed,
3 and they were supportive of this rule -- proposed rule
4 amendment to 313.308 that Mr. Hooper was talking
5 about.

6 CHAIRMAN SCHMIDT: We really appreciate
7 both of your efforts on our behalf.

8 Any other discussion by any members of
9 the Commission?

10 I'll certainly entertain a motion to
11 publish the rules listed in Agenda Item VI-A through
12 VI-E in the Texas Register for public comments.

13 COMMISSIONER MARTIN: I make a motion.

14 CHAIRMAN SCHMIDT: A motion made by
15 Dr. Martin.

16 COMMISSIONER STEEN: Second.

17 CHAIRMAN SCHMIDT: Seconded by
18 Mr. Steen.

19 Any further discussion?

20 We'll now call for a vote. All those in
21 favor signify by saying aye.

22 COMMISSIONERS: Aye.

23 CHAIRMAN SCHMIDT: Anyone opposed?

24 Then Items A through E under VI will be
25 published in the Texas Register.

1 Rule adoptions. Mr. Fenner, again, could
2 you lay out the proposed rule adoptions which have now
3 worked their way through the system and are ready to be
4 approved?

5 MR. FENNER: Yes, sir. All of these
6 rules that are coming up next have been published in
7 the Texas Register. We did receive one comment on Rule
8 319.3 which I'll talk about in just a moment.

9 The rules that are up for adoption are
10 Rule 301.1. This one modifies the definition of
11 performance to specify that a greyhound performance
12 consists of 15 races or fewer unless approved by the
13 executive director and it incorporates the new
14 statutory definitions of an active and an inactive
15 license.

16 The change to Rule 309.8 addresses the
17 agency's loss of outstanding ticket revenue. It
18 establishes a new system of fees to support the
19 agency.

20 The change to Rule 309.129 eliminates the
21 200-dollar daily limit on banking machine withdrawals.

22 The change to 311.3 clarifies that
23 fingerprints have to be submitted for both the initial
24 and renewal of licenses. And it also increases the
25 fingerprinting fee from \$12 to \$44.20. This is to

1 provide full reimbursement to DPS for the cost of
2 conducting those background checks.

3 The changes to Rules 319.335, 336, and
4 321.36, these implement the change in the sunset bill
5 that removes outstanding tickets as a source of revenue
6 to the agency. The change to 335 removes the
7 requirement that the Commission audit drug testing
8 charges. The change to 336 eliminates provisions
9 requiring an accounting of outstanding tickets. And
10 then the change to 321.36 allows the racetracks to
11 retain that revenue from the expiration of outstanding
12 tickets.

13 The change to 319.3 reduces the maximum
14 level of phenylbutazone in blood plasma or serum to two
15 micrograms per milliliter. That was supported in
16 written correspondence from RCI. That was the
17 correspondence I mentioned earlier.

18 And then finally, the change to 321.407
19 eliminates the reciprocal meet-for-meet arrangement
20 that we had in place for Standardbred racing and it
21 ensures that all Texas racetracks are eligible to
22 import Standardbred races. This is the same policy
23 that's in place for other imported horse or greyhound
24 races.

25 These have been through the rules

1 committee. We have received no written comments other
2 than the one I mentioned. Staff recommends adoption of
3 all these rules.

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

6 Any public comment?

7 Again I'd ask the members of the rules
8 committee, Commissioner O'Connell, Commissioner
9 Haywood, any additional input?

10 COMMISSIONER HAYWOOD: No. All of these
11 have been through the rules committee at least once,
12 most of them on separate occasions. The industry has
13 seemed to be in agreement with all of them as
14 presented.

15 CHAIRMAN SCHMIDT: This is the second or
16 third pass through these rules.

17 I'll certainly entertain a motion to
18 adopt the rules listed in Agenda Items VI-F through N
19 as published in the Texas Register. Is there a
20 motion?

21 COMMISSIONER MARTIN: Motion.

22 CHAIRMAN SCHMIDT: Dr. Martin made the
23 motion to approve.

24 COMMISSIONER WEINBERG: Second.

25 CHAIRMAN SCHMIDT: Ms. Weinberg has

1 seconded.

2 Any further discussion?

3 I'll call it to a vote. Please signify
4 in favor by voting -- by saying aye, all those in
5 favor.

6 COMMISSIONERS: Aye.

7 CHAIRMAN SCHMIDT: Anyone opposed?

8 Okay. Rules listed as Items F through N
9 are now approved.

10 We'll not have an executive session
11 today.

12 Our next meeting will be on the 7th of
13 February. And we'll probably find a schedule which we
14 previously discussed with the one exception in June.
15 That's been moved from the second Tuesday to the third
16 Tuesday unless anyone objects. We can count on that
17 schedule as fairly firm.

18 I hope you enjoy the rain. Have an
19 enjoyable Thanksgiving and Christmas. The meeting is
20 now adjourned.

21 (Proceedings concluded at 11:30 a.m.)

22

23

24

25

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 ____ day of November, 2011.

16
17
18
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20

21 _____
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