

BEFORE THE  
TEXAS RACING COMMISSION  
AUSTIN, TEXAS

COMMISSION MEETING

AUGUST 13, 2013

BE IT REMEMBERED that the above entitled matter came on for hearing on the 13th day of August, 2013, beginning at 10:37 A.M. at 2105 Kramer Lane, 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  
                            JOHN T. STEEN, III  
                            ANN O'CONNELL  
                            A. CYNTHIA LEON

1                   CHAIRMAN SCHMIDT: Welcome. It's August  
2 13th and it's 10:37. We delayed the start of the  
3 meeting just a little bit so some of the folks  
4 traveling from the airport could get here. Apparently  
5 there's some traffic on I-30 coming over here.

6                   Ms. Norwood, could you please call the  
7 roll?

8                   MS. NORWOOD: Commissioner Ron Ederer?  
9 Commissioner Cynthia Leon?

10                  MS. LEON: Here.

11                  MS. NORWOOD: Commissioner Ann  
12 O'Connell?

13                  MS. O'CONNELL: Here.

14                  MS. NORWOOD: Commissioner Gloria Hicks?

15                  COMMISSIONER HICKS: Here.

16                  MS. NORWOOD: Commissioner Vicki  
17 Weinberg? Commissioner Michael Martin?

18                  COMMISSIONER MARTIN: Here.

19                  MS. NORWOOD: Commissioner John Steen?

20                  COMMISSIONER STEEN: Here.

21                  MS. NORWOOD: Commissioner Gary Aber?  
22 Chairman Robert Schmidt?

23                  CHAIRMAN SCHMIDT: Here.

24                  Do we still have a quorum?

25                  MS. NORWOOD: We do.

1                   CHAIRMAN SCHMIDT:  And we have one card  
2                   turned in for public comment, Charles Wright from  
3                   Argyle, Texas.

4                   Mr. Wright?

5                   MR. WRIGHT:  Yes, sir.  Thank you.  I  
6                   gave some packets, some comments.  I hope everybody has  
7                   one.

8                   What I want to address briefly -- and  
9                   thank you for hearing me out -- is I had a horse that  
10                  broke down at Lone Star Park in the last race on  
11                  Kentucky Derby Day.  He was euthanized on the track  
12                  without my consent.  I'm the owner and the trainer of  
13                  the horse.  I had directed the staff at Lone Star to  
14                  take the horse back to the barn for evaluation and  
15                  treatment.

16                 He at no time went down.  He was, you  
17                 know, walking around.  He did suffer significant  
18                 damage, but the damage that we were originally told was  
19                 such that most experienced equine veterinarians felt  
20                 the appropriate standard of care was to stabilize the  
21                 injury and then do further evaluation.  So there  
22                 doesn't seem to be any way on the track that  
23                 veterinarians can do things like determine the extent  
24                 of soft tissue damage, things like that.  There were no  
25                 bones protruding through the skin.  We were told he had

1 a disarticulated fetlock and a possible fracture in the  
2 ankle.

3           The point being that we were told, when  
4 we did finally find the horse, he was being taken, at  
5 least his body, to be disposed of, the first we knew he  
6 had been put down. And the track staff was very short  
7 with us and indicated that horses like this usually are  
8 just put down, they're not given a chance, and they  
9 referred to decision factors like the sex of the horse,  
10 the value of the horse, the type of race it was, his  
11 breeding status.

12           The Texas Racing Act gives the authority  
13 to the attending Commission veterinarian to put the  
14 horse down if it's in the humane and best interest of  
15 the horse; but as soon as other factors come into play,  
16 like "We're tired. It's the end of the day. It's a  
17 gelding, so it doesn't have any breeding value. People  
18 usually don't spend money on that type of horse,"  
19 you're outside of those boundaries.

20           I was pretty upset at first and was  
21 advised to settle down and do some research. With the  
22 help of Jan Haynes, I got in contact with Dr. Quirk.  
23 We have addressed this situation at some length. And I  
24 refer you to this document related to the NTRA. And  
25 what the NTRA has done is they've identified in their

1 safety alliance best practices in the industry on how  
2 to deal with a variety of issues. One of them is  
3 breakdown of horses.

4 And as you can see on this particular  
5 sheet, the tracks that have embraced this NTRA safety  
6 alliance involve most of the major horse racing venues  
7 in the country. Courses like Saratoga, Del Mar,  
8 Churchill, Keeneland, you know, the top of the industry  
9 embraces these as best practices.

10 I suggest that what I have learned is  
11 there are significant opportunities for the Commission  
12 to improve how they're dealing with situations like  
13 this. It impacted my ability to get customers that  
14 day. And particularly I'm going to refer to Section Q,  
15 Regulatory Veterinary Practice and Procedures, where it  
16 says that the racetrack members and, by extension, the  
17 Commission since they're your employees that were  
18 making these decisions -- the vet that put my horse  
19 down is a Commission employee -- should be required to  
20 develop specific written protocols for all aspects of  
21 standard regulatory medical operations, including  
22 prerace exams and, in particular, protocols and  
23 procedures in case of catastrophic injury during a  
24 race.

25 Dr. Quirk has indicated to me -- and I'm

1 going to ask him to confirm this -- that he is going to  
2 convene some type of a meeting, I believe in Dallas, in  
3 September where these issues are going to be  
4 addressed. My purpose today is, number one, inform the  
5 Commission of what happened, the fact that it was done  
6 under your watch; number two, hopefully to get your  
7 support in this as we're all looking out for the best  
8 interest of the horses in this industry; and number  
9 three, to establish some accountability in terms of  
10 moving forward and getting this done.

11 I thank you for your time. I understand  
12 you really cannot respond with policy issues. But if  
13 anybody has any questions, I'm more than happy to take  
14 them.

15 CHAIRMAN SCHMIDT: Does anyone have any  
16 questions?

17 COMMISSIONER MARTIN: All I was going to  
18 say is I've talked to Dr. Quirk about this. We've got  
19 a preliminary meeting set up. I believe we're shooting  
20 for September 10th in Dallas. And we would love to  
21 have you there and maybe discuss this a little  
22 further.

23 MR. WRIGHT: I'll be glad to participate  
24 to try and improve things. And thank you.

25 CHAIRMAN SCHMIDT: I just had two

1 questions.

2 MR. WRIGHT: Yes, sir.

3 CHAIRMAN SCHMIDT: Did the horse walk  
4 onto the van or was it vanned off?

5 MR. WRIGHT: He walked onto the  
6 ambulance. He was euthanized in the ambulance. He  
7 never went down.

8 CHAIRMAN SCHMIDT: Okay. Was he -- did  
9 he have a splint on when he walked onto the van or did  
10 he --

11 MR. WRIGHT: It was too far away for me  
12 to tell. I couldn't tell. The Racing Act requires  
13 there to be available something called a Kinsey brace,  
14 which is a device which is specifically designed to  
15 stabilize the type of injury my horse had, and also  
16 requires the veterinarians to be certified and trained  
17 in their use of it. It didn't happen. I don't know  
18 why. You know, you guys are the management team for  
19 the Racing Commission. He's your employee. I would  
20 think, you know, we should establish some procedures.

21 As a personal observation, I have to  
22 question, you know, the cultural aspect of this that  
23 the veterinarian thought he was operating under. Was  
24 he operating with the goal that his number one  
25 objective was to get the track off -- the horse off the

1 track and back to the stall or was he feeling he was  
2 obligated to have to make a determination right there  
3 on the spot? And these protocols -- establishing these  
4 protocols and the decision criteria will go a long way  
5 to clarify those issues in somebody's mind.

6 I'll give you an example of another  
7 incident that happened at Lone Star where a horse went  
8 down after the finish line apparently from heat  
9 exhaustion. Dr. McCall, who is another Commission  
10 veterinarian, worked for over a half hour to get that  
11 horse up and on the ambulance and off the track,  
12 delaying the races. And I had friends that were  
13 holding horses in the paddock area. They delayed the  
14 next race because of that. And to a man, everybody  
15 totally supported her actions because she was acting in  
16 the best interest of the horse. So, you know, I wanted  
17 to point this out.

18 But, Dr. Martin, you're a veterinarian.  
19 You know, you and I both know there are times when  
20 things happen and things have to be done; but if at all  
21 possible, you know, my belief is, you know, you need to  
22 have the protocols in place to justify the actions and,  
23 if at all possible, the owner or the trainer needs to  
24 be involved in the decision process because you  
25 actually are taking very valuable property when you

1 euthanize a horse.

2 CHAIRMAN SCHMIDT: I want to thank you  
3 very much for the, I think, very constructive way that  
4 you brought this to our attention.

5 MR. WRIGHT: That was my intention was to  
6 be constructive.

7 CHAIRMAN SCHMIDT: And we've actually --  
8 I do agree with many of your comments. I think the  
9 value of the horse is in the trainer's eye. Now,  
10 there's certain opportunities -- there's certain  
11 situations on the track when meeting with the trainer  
12 is difficult. But we'll certainly follow up on this.  
13 Thank you very much --

14 MR. WRIGHT: Thank you.

15 CHAIRMAN SCHMIDT: -- for your  
16 information.

17 Ms. Norwood, could you please note that  
18 Commissioner Ederer arrived at 10:43?

19 MS. NORWOOD: Yes.

20 VICE-CHAIRMAN EDERER: I apologize.

21 CHAIRMAN SCHMIDT: We knew the traffic  
22 was -- we just started.

23 VICE-CHAIRMAN EDERER: The airline was  
24 delayed. I got slowed down in Houston.

25 CHAIRMAN SCHMIDT: Any other cards for

1 public comment?

2                   Okay. Just one other item before we move  
3 to general business. For those of you who have not  
4 heard, Carolyn Norwood, who is the executive assistant  
5 for Mr. Trout, will be retiring from the agency at the  
6 end of August.

7                   And Carolyn is a very special person.  
8 She's really the soul of the Commission. She's been  
9 with us for five years. She makes our meetings here  
10 run. I think she really makes the Commission run. And  
11 she's a person with superb organizational skills.

12                   She's worked for the State now for 30  
13 years. She initially began working with the Council on  
14 Physical Fitness. Then for 24 years she worked at the  
15 Department of Public Safety. And for the past five  
16 years she's been with us. And she'll be invaluable and  
17 impossible to replace.

18                   Shortly after she got here, she totally  
19 reorganized our filing system. We had 20 years worth  
20 of old files. Basically she cleaned out our office and  
21 now we have a bright, clean, organized facility.

22                   But she's worked through, I think, eight  
23 Sunset Commission reviews, which is extraordinary.  
24 Even over 30 years, it's an extraordinary amount of  
25 time. She's worked with 18 difficult, demanding, and

1       overbearing Commissioners and chairmen. And we really  
2       appreciate your contributions. Through that, she's  
3       always maintained a sense of humor and a very graceful  
4       style.

5                        It's perhaps not appropriate; but I will  
6       tell you on the few occasions in which I call the  
7       Commission and Mr. Trout and Mr. Fenner are not there,  
8       she'll tell me a story that's completely implausible;  
9       but after I hear it, I'll believe it and I'm  
10      comfortable.

11                      So, Carolyn, I'd like to -- I think I  
12      speak on behalf of the entire Commission and tell you  
13      what a great job you've done. We're going to miss  
14      you. And I'd like you to come up and give you a small  
15      token of our appreciation.

16                      She'll be very difficult to replace,  
17      Chuck.

18                      MR. TROUT: Yes, sir, I know.

19                      CHAIRMAN SCHMIDT: General business, a  
20      budget and finance update.

21                      Lane Goetsch?

22                      MS. GOETSCH: Good morning,  
23      Commissioners. I'm Lane Goetsch, director of finance  
24      and administration for the Texas Racing Commission,  
25      here to give you the budget and finance update.

1                   On pages four and five of your agenda  
2                   packet, you will find the agency's fiscal year 2013  
3                   operating budget reflecting revenue collections and  
4                   expenditures as of June 30th, 2013. As of that date,  
5                   the agency had collected 8.3 million, or 85 percent, of  
6                   revenues and expended 6.5 million, or 69 percent, of  
7                   budgeted expenditures. At this time the Racing  
8                   Commission is in good operating condition.

9                   If you have any questions, I will be  
10                  happy to answer them.

11                  CHAIRMAN SCHMIDT: Any questions of  
12                  Lane?

13                  Thank you very much.

14                  MS. GOETSCH: Thank you.

15                  CHAIRMAN SCHMIDT: Wagering statistics.  
16                  Mr. Sammy Jackson, deputy director of finance and  
17                  wagering.

18                  Sammy?

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

20                  Commissioners, on pages six through eight  
21                  of your agenda packet, you'll find the report on  
22                  wagering statistics for the periods of January 1st  
23                  through August 4th for both 2012 and 2013.

24                  The report reflects that 2013 total  
25                  wagering activity has decreased at the horse racetracks

1 by 2.29 percent and has increased at the greyhound  
2 racetracks by 2.7 percent. The analytical review of  
3 that, we believe that will change somewhat on the horse  
4 side and pick up. There was a transition of dates that  
5 were ran in 2012 as compared to 2013 where Retama is  
6 running in December this year and they hadn't been  
7 running there previously. So we think that's going to  
8 show these numbers move more to that at what we have at  
9 our greyhound tracks.

10 And if you have any questions, I'll be  
11 more than happy to answer them.

12 CHAIRMAN SCHMIDT: Sammy, just rough  
13 numbers from Lone Star, the final report, up one  
14 percent in attendance and neutral with the handle?

15 MR. JACKSON: Yes, sir, I believe so.

16 CHAIRMAN SCHMIDT: Any other questions of  
17 Mr. Jackson?

18 Thank you, Sammy.

19 MR. JACKSON: Thank you.

20 CHAIRMAN SCHMIDT: Racetrack inspections  
21 and enforcement report.

22 Jim, could you give us both?

23 MR. BLODGETT: Thank you, Mr. Chairman.

24 Commissioners, the racetrack inspection  
25 report is included in your agenda packet under Tab 4

1 today. It covers the period of time June 1st through  
2 July 31st, 2013.

3 During this time period a total of 13  
4 racetrack inspections were reported by staff. As  
5 outlined within your packets, these inspections were  
6 conducted within the areas of veterinarian, safety and  
7 security, administration, wagering, and racing at the  
8 following tracks: Retama Park, Gulf Greyhound Park,  
9 Gulf Coast Racing, Lone Star Park, Gillespie County  
10 Fair, and Saddle Brook Jockey Club.

11 A breakdown of the inspection types  
12 included six scheduled, three no-notice, and four  
13 follow-up inspections. Currently there are no  
14 unsatisfactory items remaining.

15 CHAIRMAN SCHMIDT: Any further questions  
16 from the Commissioners?

17 Thank you, Jim.

18 Moving forward, discussion,  
19 consideration, and possible action, approval of a  
20 memorandum of understanding with the Texas Veterinary  
21 Medical Diagnostic Lab for fiscal year 2014.

22 Mark, can you bring us up to date,  
23 please?

24 MR. FENNER: Yes, sir.

25 Commissioners, the Racing Act provides

1 that drug testing on race animals will be conducted by  
2 the Texas Veterinary Medical Diagnostic Laboratory and  
3 that those testing costs are paid by the association.  
4 The Commission is charged with the responsibility of  
5 reviewing these charges to make sure that they are  
6 reasonable and in line with what's appropriate.

7 Now, this year's memorandum of  
8 understanding, which we do this every year, has got  
9 some pretty substantial increases in costs. And the  
10 reason for these is to allow TVMDL to become ISO 17025  
11 certified. This is to comply with the standard  
12 certification requirements which are being established  
13 by RCI and the RMTTC. And TVMDL has been working toward  
14 this for quite some time and they've estimated that the  
15 first-year cost of achieving that certification is  
16 \$145,000.

17 This will include costs for a new quality  
18 assurance manager, a new section head, and an  
19 additional chemist. In addition, the Commission has  
20 recently moved to establish new thresholds for certain  
21 therapeutic medications and that has also imposed some  
22 additional testing requirements on TVMDL.

23 So in order to provide for the funding  
24 necessary to meet these goals, the cost of your  
25 standard equine drug testing will increase from 118 to

1 160 dollars per sample. TCO2 testing is going to  
2 increase from 19 dollars to 28.50 per sample. And your  
3 stakes race testing will increase from 334 to 444  
4 dollars per sample. Specialty testing will increase  
5 from 10 to 13.50.

6 Most of these costs are being borne by  
7 the horse racing associations. The greyhound racing  
8 associations will have an increase in their tests of  
9 4.1 percent or 36.50 to 38 dollars per sample.

10 We've notified the racetracks. Obviously  
11 they're concerned about the additional costs, but we've  
12 not heard any objections from them as of yet.

13 And Dr. Parker from TVMDL is available in  
14 the audience if you have any questions.

15 CHAIRMAN SCHMIDT: Dr. Parker, could you  
16 just come up for us for a second? Thank you. Thank  
17 you very much for traveling over here.

18 MR. PARKER: Sure. Yes, sir.

19 CHAIRMAN SCHMIDT: Do you have any  
20 comments or just you're here for questions?

21 MR. PARKER: Well, TVMDL is proud to  
22 continue to provide drug testing services for the Texas  
23 Racing Commission. And as Mr. Fenner said, the bulk of  
24 the cost increases are to take care of the ISO  
25 accreditation, which is quite -- we need more

1       robustness and that's why we're adding more staff and  
2       having a lot more documentation.

3                   CHAIRMAN SCHMIDT:  Were we to -- just  
4       some technical questions.  Were we to become ISO  
5       accredited, is that in a year?  Is that a three-year  
6       plan?

7                   MR. PARKER:  In the spring of 2014.  
8       Based on the MOU, what the client requests, then that  
9       will be our scope of accreditation that we put forth to  
10      the accrediting body.

11                  CHAIRMAN SCHMIDT:  And just out of  
12      curiosity, about how many other labs in the country  
13      would be ISO accredited maybe in the spring of next  
14      year?  Are we talking about 10 labs, five labs?

15                  MR. PARKER:  About eight labs.  And two  
16      have already done the extra step of RMTTC after the ISO  
17      accredited.

18                  CHAIRMAN SCHMIDT:  And I guess the next  
19      question, just out of interest, is:  Were we to become  
20      an ISO lab, would we then become, in the ways to recoup  
21      fees, more of a destination lab?  Would people from  
22      other states be sending their samples here?  Or is that  
23      still very competitive?

24                  MR. PARKER:  We already get split testing  
25      from other laboratories, but we're not interested in

1 any contracts with any other Racing Commissions. We  
2 would get split or reference samples continuing.

3 COMMISSIONER MARTIN: You mentioned  
4 something about the ISO accreditation in the spring and  
5 then the RMTC. How long do you all expect that would  
6 take? Or would you all have any ideas?

7 MR. PARKER: We don't have any ideas on  
8 that. We're not in discussions currently with RMTC, so  
9 we don't know their timelines on that.

10 COMMISSIONER MARTIN: Okay.

11 CHAIRMAN SCHMIDT: Any further questions  
12 of Dr. Parker?

13 MS. LEON: I just have a question. Is  
14 the source of -- I mean, is this the only source that's  
15 available to the tracks to use or are there other  
16 testing labs available? I mean, is this the sole  
17 source sort of MOU or --

18 MR. FENNER: Commissioner, the act does  
19 provide drug testing on race animals will be conducted  
20 by TVMDL, so it's specified TVMDL. There is a  
21 provision that the Commission could select a different  
22 lab after consultation with TVMDL, but I think the  
23 presumption in the act is TVMDL.

24 MS. LEON: The act is that they're the  
25 sole source here.

1 MR. PARKER: Yes, ma'am.

2 MS. LEON: And the association pays for  
3 the samples directly and they're aware of the increases  
4 and so forth.

5 MR. PARKER: Right.

6 MR. FENNER: Yes, ma'am.

7 MS. LEON: Okay. Thank you.

8 CHAIRMAN SCHMIDT: Any other questions  
9 from any of the Commissioners?

10 Doctor, thank you very much for visiting  
11 us today. Appreciate it.

12 MR. PARKER: Yes, sir.

13 CHAIRMAN SCHMIDT: Is there any further  
14 discussion by the Commission?

15 If not, I'll certainly entertain a motion  
16 to approve the memorandum of understanding with the  
17 Texas Veterinary Medical Diagnostic Lab for fiscal year  
18 of 2014.

19 COMMISSIONER HICKS: I'll make a motion.

20 CHAIRMAN SCHMIDT: A motion made by  
21 Commissioner Hicks and seconded by Dr. Martin.

22 I'll bring it to a vote. All those in  
23 favor signify by saying aye.

24 COMMISSIONERS: Aye.

25 CHAIRMAN SCHMIDT: All those opposed?

1                   The motion carries.

2                   The next item, a request by Laredo Downs  
3 for approval of a change in ownership of less than one  
4 percent.

5                   And, Mark, can you bring us up to date on  
6 this item?

7                   MR. FENNER: Yes, sir.

8                   Laredo Downs has submitted a written  
9 request to approve a change of ownership of less than  
10 one-fifth of one percent. This is a result of a  
11 capital call that they do on an annual basis. One of  
12 the participants in Laredo Downs didn't make the  
13 contribution and so that contribution, I believe, is  
14 being made instead by Muy Buena Suerte. This will  
15 change Mr. Abrams' ownership down from 1.2 percent and  
16 it's going to increase the participation by Muy Buena  
17 Suerte to slightly over 51 percent or right at 51  
18 percent.

19                   We've done background checks on the Muy  
20 Buena Suerte principals in the past, most recently in  
21 February of 2012, and they're also undergoing a current  
22 background check in anticipation of the ownership and  
23 management review of Valle de los Tesoros and that will  
24 be ready in time for the October meeting.

25                   So at this stage, due to the small amount

1 of ownership interest at stake and the fact that  
2 they've undergone background checks in the past  
3 successfully, we're recommending approval.

4 CHAIRMAN SCHMIDT: Okay. For  
5 informational purposes, Mr. Moltz is available to  
6 answer any questions if we have some, but I don't think  
7 we need to call him.

8 Any further questions by the Commission,  
9 comments?

10 I'll certainly entertain a motion to  
11 approve the request by Laredo Downs for a change in  
12 ownership of less than one percent.

13 VICE-CHAIRMAN EDERER: So move.

14 CHAIRMAN SCHMIDT: A motion made by  
15 Commissioner Ederer.

16 Seconded?

17 COMMISSIONER STEEN: Second.

18 CHAIRMAN SCHMIDT: Commissioner Steen.

19 All those in favor signify by saying  
20 aye.

21 COMMISSIONERS: Aye.

22 CHAIRMAN SCHMIDT: Anyone opposed?

23 That motion also carries.

24 Item B, a request by Sam Houston Race  
25 Park and Valley Race Park for approval of a contract

1 with Sportech Racing, LLC, for totalisator services.

2 Mr. Jackson, can you update us?

3 MR. JACKSON: Yes, sir.

4 Commissioners, on page 22 of your agenda  
5 packet, you'll find a request by Sam Houston Race Park  
6 and Valley Race Park for consideration of a new  
7 totalisator contract. If approved, this new contract  
8 would continue Sportech Racing, LLC, as the totalisator  
9 system provider for both racetracks through December  
10 31st, 2019.

11 Staff has completed a thorough review of  
12 the totalisator contract and found it to be in  
13 compliance with the Texas Racing Act and the Texas  
14 Rules of Racing. As such, staff would recommend  
15 approval.

16 I'd be happy to answer any questions at  
17 this time.

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

20 Ms. Young is available for comment if  
21 needed. I'm not sure we'll need to have her do so.

22 Any further questions or discussion by  
23 any members of the Commission on this matter?

24 Okay. I'll certainly entertain a motion  
25 to approve the request by Sam Houston and Valley Race

1 Park for approval of the contract with Sportech Racing  
2 for totalisator services.

3 COMMISSIONER MARTIN: I make the motion  
4 to approve.

5 CHAIRMAN SCHMIDT: A motion made by  
6 Dr. Martin.

7 COMMISSIONER HICKS: Second.

8 CHAIRMAN SCHMIDT: Seconded by  
9 Commissioner Hicks.

10 We'll bring it to a vote. All those in  
11 favor signify by saying aye.

12 COMMISSIONERS: Aye.

13 CHAIRMAN SCHMIDT: Anyone opposed?

14 That motion also carries.

15 The next item, Mr. Jackson, can you bring  
16 us up to date regarding a request by Valley Race Park  
17 to designate an application period for race dates under  
18 Rule 303.41?

19 MR. JACKSON: Yes, sir.

20 Commissioners, on page 23 of your agenda  
21 packet, you'll find a request by Valley Race Park to  
22 have the Commission open a race date application period  
23 per Commission Rule 303.41 for the period of November  
24 1st, 2015, through November 30th, 2015. This period  
25 was outside the application period that was opened by

1 the Commission on June 11th, 2013.

2 This item was discussed at the greyhound  
3 race date committee meeting and received a favorable  
4 response by the committee members. If this application  
5 period was opened, we expect to receive an application  
6 from Valley Race Park to continue their meet that they  
7 typically have started to run now in November and  
8 that's why they're asking for that today.

9 If you have any questions, I'll be happy  
10 to answer them. And I know Andrea is here, too, as  
11 well who could discuss this.

12 CHAIRMAN SCHMIDT: Are there any  
13 questions of Mr. Jackson?

14 Ms. Young, if you'd come visit with us.  
15 Do you have any comments?

16 MS. YOUNG: Yeah. Just briefly, this is  
17 really an administrative request more than anything.  
18 The last couple of years we've had to pick dates in  
19 July and then end up moving them into November. By  
20 opening up this period now, if the Commission chooses  
21 to do so, we can avoid that kind of movement around  
22 later on that we've had to do the last couple of  
23 years.

24 CHAIRMAN SCHMIDT: This will also help  
25 you with marketing and planning.

1 MS. YOUNG: Absolutely. Of course.

2 I'm happy to answer any questions.

3 CHAIRMAN SCHMIDT: Any questions of

4 Ms. Young?

5 Okay. Thank you.

6 MS. YOUNG: Thank you.

7 CHAIRMAN SCHMIDT: No other further

8 comment. Any discussion by the Commissioners?

9 I'll certainly entertain a motion to  
10 approve the request to open the application period for  
11 race dates in November of 2015.

12 VICE-CHAIRMAN EDERER: Excuse me. Would  
13 this also apply to horses? Yes? I believe this opens  
14 it up for everyone, doesn't it?

15 MR. JACKSON: That is correct,  
16 Commissioner.

17 VICE-CHAIRMAN EDERER: No further  
18 comment. I'm sorry.

19 CHAIRMAN SCHMIDT: Sure. It does apply  
20 to horses if anyone wants additional dates.

21 Any further discussion?

22 Okay. So I'll still entertain a motion  
23 to approve Valley Race Park's request to open up an  
24 application period for live race dates for November  
25 2015.

1 VICE-CHAIRMAN EDERER: So move.

2 CHAIRMAN SCHMIDT: Moved by Vice-Chair  
3 Ederer.

4 Second? Seconded by Dr. Martin.

5 Any further comments, concerns?

6 We'll bring this to vote. All those in  
7 favor signify by saying aye.

8 COMMISSIONERS: Aye.

9 CHAIRMAN SCHMIDT: Is anyone opposed?

10 That motion is also granted -- approved.

11 Excuse me.

12 Item D, allocation of live race dates for  
13 greyhound racetracks under Commission Rule 303.41 for  
14 the period beginning January 2014 and ending August  
15 31st, 2015. So January 1st, 2014, through August 31st,  
16 2015.

17 Mr. Jackson, can you update us on this  
18 issue?

19 MR. JACKSON: Yes, sir.

20 Commissioners, at the June 11th  
21 Commission meeting, you approved opening a date  
22 application period to receive race date requests for  
23 calendar year 2014 and the first eight months of 2015.

24 On pages 24 and 25 of your agenda packet,  
25 you'll find a memorandum outlining the greyhound race

1 date requests received for this application period as  
2 well as race dates previously granted.

3 On page 40 of your agenda packet, you'll  
4 also find the resulting 2014 greyhound race date  
5 calendar. There will be no 2015 calendar in your  
6 packet today because we did not receive any requests  
7 for dates for the first eight months of 2015.

8 The 2014 draft calendar before you today  
9 for consideration has 260 performances on it, of which  
10 255 are requested by Gulf Greyhound Park and five have  
11 been previously granted to Gulf Coast Racing.

12 Commissioners, all race date applications  
13 were received timely and in accordance with Commission  
14 rules overseeing the race date application process.

15 And at this time I'd be happy to answer  
16 any questions you may have.

17 CHAIRMAN SCHMIDT: It looks like they  
18 worked this out.

19 Any questions of Mr. Jackson?

20 MS. O'CONNELL: I have a question.

21 MR. JACKSON: Yes, ma'am.

22 MS. O'CONNELL: Do some of the dates  
23 overlap?

24 MR. JACKSON: The dates at Gulf Coast  
25 Racing would overlap with Gulf Greyhound Park's dates.

1 MS. O'CONNELL: And what is the thought  
2 on whether that will work or not?

3 MR. JACKSON: I think the question would  
4 be if they're ready to run. Then there would possibly  
5 be an issue of dogs. But at our race date committee  
6 meeting, there was a strong working relationship  
7 between Gulf Greyhound Park and Valley Race Park on  
8 trying to solve any problems that occurred with that  
9 issue; and I would assume since the management of Gulf  
10 Coast Racing is, in essence, the same management  
11 company at Gulf Greyhound Park that they would try to  
12 work to solve that issue as well.

13 MS. O'CONNELL: Thank you.

14 CHAIRMAN SCHMIDT: Any other questions of  
15 Mr. Jackson?

16 Mr. James is available for questions if  
17 we need him.

18 Ms. Hicks, do you have any comments or  
19 recommendations?

20 COMMISSIONER HICKS: No. Our meeting  
21 went very well; and with Sammy's help, we were able to  
22 get all of these dates in here in the calendar.

23 And I don't know if -- Sally, do you have  
24 anything you wanted to add?

25 MS. BRIGGS: No.

1 COMMISSIONER HICKS: Okay.

2 CHAIRMAN SCHMIDT: Any other further  
3 comments by anyone else?

4 I'll certainly entertain a motion to --

5 COMMISSIONER HICKS: I'll make a motion.

6 CHAIRMAN SCHMIDT: There's been a motion  
7 made by Commissioner Hicks to approve the race dates as  
8 requested by the greyhound racetracks as shown on page  
9 40 of our packet.

10 Is there a second?

11 VICE-CHAIRMAN EDERER: Second.

12 CHAIRMAN SCHMIDT: Seconded by Vice-Chair  
13 Ederer.

14 All those in favor signify by saying  
15 aye.

16 COMMISSIONERS: Aye.

17 CHAIRMAN SCHMIDT: All those opposed?

18 That motion also carries.

19 The next item is live race dates for  
20 horse racetracks beginning January 1st, 2014, and  
21 ending August 31st, 2015.

22 Mr. Jackson, can you bring us up to date  
23 on this issue?

24 MR. JACKSON: Yes, sir, Mr. Chairman.

25 Commissioners, again, at the June 11th

1 Commission meeting, you approved opening a race date  
2 application period to receive dates for calendar year  
3 '14 and the first eight months of 2015.

4 On pages 41 and 42 of your agenda packet,  
5 you will find a memorandum outlining the horse date  
6 requests received for this application period as well  
7 as the dates previously granted.

8 On page 66 of your agenda packet, you  
9 will find the resulting 2014 horse race date calendar.  
10 And on page 90 you will find the resulting 2015 horse  
11 race date calendar.

12 The 2014 draft calendar before you today  
13 for consideration has 198 live race dates, of which 106  
14 are designated as Thoroughbred dates, 82 are designated  
15 as Quarter Horse dates, and 10 are designated as mixed  
16 dates.

17 The 2015 draft calendar before you today  
18 for consideration has 110 live race dates on it, of  
19 which 82 are designated as Thoroughbred dates, 20 are  
20 designated as Quarter Horse dates, and eight are  
21 designated as mixed dates.

22 Keep in mind that on the 2015 calendar,  
23 the months of September, October, November, and  
24 December were not open to receive requests and that's  
25 typically why there's less dates comparably between the

1 two calendars.

2 Commissioners, all race date applications  
3 were received timely and in accordance with Commission  
4 rules overseeing the race date application process.

5 And at this time I will be happy to  
6 answer any questions you may have.

7 CHAIRMAN SCHMIDT: Any questions of  
8 Mr. Jackson by any of the Commissioners?

9 Okay. We do have several cards for  
10 public comment. Ms. Young, Sam Houston?

11 MS. YOUNG: Commissioners, our request  
12 really mirrors our current schedule. Our 2014  
13 Thoroughbred dates were actually granted last year, so  
14 our current request is for 2014 Quarter Horse dates as  
15 well as 2015 Thoroughbred dates. As has been our  
16 practice this year or the last several years, again,  
17 we're asking for 24 Quarter Horse dates like we ran  
18 this year and 20 -- and 30 Thoroughbred dates in 2015  
19 as our current schedule this year contemplates.

20 I'm happy to answer any questions you  
21 might have.

22 CHAIRMAN SCHMIDT: Any questions of  
23 Andrea?

24 Thank you, Andrea.

25 MS. YOUNG: Thank you.

1                   CHAIRMAN SCHMIDT: Mr. Shubeck, Lone  
2     Star?

3                   MR. SHUBECK: Good morning, Commissioner  
4     Schmidt and all the other Commissioners.

5                   I guess I'd like to summarize our amended  
6     application. The amended application was put forth  
7     after negotiations with the Texas Horsemen's  
8     Partnership, the Quarter Horse breeders, the  
9     Thoroughbred breeders, and representatives of the minor  
10    breeds.

11                  The change on the Thoroughbred side is to  
12    request 50 days for 2014. The dates would start on  
13    April 10th and go until July 12th. We are dropping a  
14    couple of more Sundays for next year because the  
15    experiment of going down to three days a week at the  
16    end of our meet this year was very successful. We  
17    struggled with field size throughout the meet. Really  
18    we struggled also with carding competitive races. So  
19    having a few less races per week really made the  
20    product we're offering that much better.

21                  We dug ourselves a pretty big hole in  
22    April. The cold winter didn't allow us to have turf  
23    racing for approximately the first month. So our  
24    average field size was down. Our handle was down  
25    double digits. And we wound up making a really great

1 recovery throughout the meet and we ended -- the last  
2 live -- the seven last live Thoroughbred days we had  
3 over 84,000 people come to Lone Star Park for racing,  
4 for the promotions that included 4th of July fireworks  
5 and concerts and things like that. So we ended up very  
6 excited.

7           And we looked at 2014 and we saw that  
8 Easter was falling right in the middle of our beginning  
9 of our meet, so we decided to make that a dark day.  
10 Even though that's a pretty good day in the Silks  
11 dining room, there's really no general admission crowd  
12 on Easter. And just to make it -- to start off where  
13 we can get the message out, the first Sunday as well,  
14 the April 13th, we'd go dark.

15           I know the horsemen like the Sunday  
16 racing, especially the horsemen that have to travel a  
17 pretty far distance to get to the metroplex to watch  
18 their horses participate; but dropping these days makes  
19 the whole week much better for us.

20           On the Quarter Horse side, 26 days in the  
21 fall, starting September 19th and ending November 15th,  
22 and we also had in for 2015 a place holder. I expect  
23 to make changes to the Thoroughbred meet again in 2015,  
24 52 days starting April 9th and ending July 11th.

25           I'd take any questions we have from the

1 Commissioners.

2 CHAIRMAN SCHMIDT: Any questions of  
3 Mr. Shubeck?

4 Okay. Thank you, Drew. Thank you very  
5 much.

6 MR. SHUBECK: Thank you.

7 CHAIRMAN SCHMIDT: Commissioner Ederer,  
8 you and Commissioner Hicks have done the heavy work on  
9 the greyhound and the Thoroughbred side. We thank both  
10 of you very much. Any comments on the horse race date  
11 schedule recommendations?

12 VICE-CHAIRMAN EDERER: On August the 7th  
13 we had a race date calendar committee meeting and it  
14 was very congenial and everyone did agree with all of  
15 the dates as previously granted and the new requested  
16 dates and so everything went just fine.

17 Is Retama here?

18 CHAIRMAN SCHMIDT: I did not have a  
19 request from Retama.

20 VICE-CHAIRMAN EDERER: No, I have a  
21 question for Retama. I think this is a good time to do  
22 it.

23 CHAIRMAN SCHMIDT: Sure.

24 COMMISSIONER EDERER: I notice that on  
25 the 14 dates Gillespie and Retama are on top of each

1 other. But I understand also that in the meet that  
2 they just had or just concluded at Gillespie that  
3 things went very well for both tracks. Is that  
4 correct?

5 MR. CORRADO: That is correct.

6 VICE-CHAIRMAN EDERER: So there's no  
7 problem with that conflict that you would say.

8 MR. CORRADO: No. I think all in all it  
9 went well. I think just -- I think the only challenge  
10 we had was on one day. I think just being mindful,  
11 depending on the number of races that potentially  
12 happen, just the amount of time for some of the jockeys  
13 getting from one track to the next. But outside of  
14 that one day, I thought it went very smooth.

15 VICE-CHAIRMAN EDERER: Because I  
16 understand Gillespie was a very successful meet.

17 MR. CORRADO: Okay.

18 VICE-CHAIRMAN EDERER: Thank you.

19 MR. CORRADO: Sure. Not a problem. And  
20 I apologize. I did not submit this for any comment  
21 with regards to Retama's race dates for 2014. I'm not  
22 sure if you want any comment or not. You're good?  
23 Okay.

24 MS. O'CONNELL: That was my question  
25 about Gillespie. It did seem like they had competition

1 on almost every weekend.

2 Is anyone here from Gillespie --

3 COMMISSIONER HICKS: Sally.

4 MS. O'CONNELL: -- just to speak to  
5 that?

6 VICE-CHAIRMAN EDERER: Sally can speak to  
7 it. I know that.

8 MS. BRIGGS: What was your -- I couldn't  
9 hear what you said.

10 MS. O'CONNELL: I just noticed on the  
11 calendar that all of the Gillespie dates or just about  
12 all of them have competition from one track or another  
13 or sometimes two.

14 MS. BRIGGS: The past two years we've had  
15 competitions -- we run Saturday and Sunday  
16 traditionally and we've had competition on Saturday  
17 night from Retama, but it has not affected as far as  
18 our handle and attendance has gone the last couple of  
19 years. So we have not been concerned with it.

20 MS. O'CONNELL: Thank you.

21 CHAIRMAN SCHMIDT: Mr. Jackson?

22 MR. JACKSON: Just to comment on that.  
23 Before the meet started this year, this is a concern  
24 for Gillespie. They've made that point clear through  
25 our discussions over the years, although they're not



1 question.

2 MR. JACKSON: Yes, sir.

3 CHAIRMAN SCHMIDT: Were the concerns due  
4 to the issues of horse and horse supply and fields? Or  
5 are the concerns that we're competing for the same  
6 group as opposed to a different --

7 MR. JACKSON: I talked -- I spoke to  
8 Steve Wetz, in fact, yesterday on another issue and  
9 this came up in our conversation. I think the issue is  
10 multipronged. One is the use of the jockeys. There's  
11 not a huge jockey colony, so they're using the same  
12 jockeys because they're both running a lot of Quarter  
13 Horse racing at those two tracks.

14 I think there's also the possibility some  
15 of the people who work on the gates at Gillespie could  
16 be working the gates or the paddock, the valets that go  
17 to Retama as well that follow those jockeys. So it's  
18 kind of multipronged.

19 But by -- in our efforts of trying to  
20 distance the Quarter Horse races from the end of the  
21 day at Gillespie has helped to alleviate some of that.  
22 But there's always going to be a concern as our horse  
23 population -- if it continues to dwindle, then that's  
24 going to become a bigger issue.

25 CHAIRMAN SCHMIDT: Any questions of

1 Ms. Briggs or Mr. Jackson?

2 Any further comments or questions?

3 VICE-CHAIRMAN EDERER: Just that it's my  
4 understanding that both meets have been successful at  
5 this point in time and they did not -- if anything,  
6 they tended to complement each other, keeping the fans  
7 interested in racing.

8 MS. BRIGGS: We're running during the day  
9 at Gillespie and Retama is running in the evening.

10 And August 24th and 25th of this year  
11 will be our final meet at Gillespie and it also is the  
12 125th county fair. So every -- you should come. It's  
13 an old-timey county fair and it's a lot of fun.

14 CHAIRMAN SCHMIDT: A big deal.  
15 Congratulations.

16 MS. BRIGGS: Thank you.

17 VICE-CHAIRMAN EDERER: Just in further  
18 comment, I recommend that they all be approved.

19 CHAIRMAN SCHMIDT: I'll certainly  
20 entertain a motion to approve the race dates as  
21 requested as shown by the racetracks on our agenda  
22 packet pages 66 and 90.

23 VICE-CHAIRMAN EDERER: I recommend  
24 approval.

25 CHAIRMAN SCHMIDT: A motion by Vice-Chair

1 Ederer.

2 COMMISSIONER STEEN: Second.

3 CHAIRMAN SCHMIDT: Seconded by

4 Commissioner Steen.

5 All those in favor signify by saying  
6 aye.

7 COMMISSIONERS: Aye.

8 CHAIRMAN SCHMIDT: Anyone opposed?

9 Okay. That motion also carries.

10 Item F, review and renewal of inactive  
11 racetrack licenses under Commission Rule 309.52.

12 Mark, can you bring us up to date on this  
13 item?

14 MR. FENNER: Yes, sir.

15 As most of you are aware and have lived  
16 through, the sunset bill that took effect on September  
17 1 of 2011 established a system by which the Commission  
18 designates racetrack licenses as either active or  
19 inactive. Then those racetrack licenses that are  
20 designated as inactive come back to you on an annual  
21 basis for a review and renewal. It also required the  
22 Commission to adopt rules and setting out some of the  
23 criteria you would use in considering whether a  
24 racetrack license should be renewed.

25 Now, the licenses that are currently

1 inactive are Laredo Downs, Laredo Race Park, Manor  
2 Downs, and Longhorn Downs. Now, in preparation for  
3 this, we prepared an application form for each of the  
4 racetrack licenses that follows the criteria that are  
5 established in rule for them to meet in order to be  
6 eligible for -- or to be considered by the Commission  
7 for renewal.

8 Now, after you've gone through this  
9 process, what you're looking to do at the end of it is  
10 you may either designate the license as  
11 active-operating or active-other; you may renew it as  
12 an inactive license; or you can even refer it to the  
13 State Office of Administrative Hearings for proceedings  
14 on whether it should be nonrenewed.

15 Now, the criteria that are established in  
16 both the act and also through the rule that you're  
17 looking for to determine whether to renew the license  
18 are what's the financial stability of the license,  
19 what's its ability to conduct live racing, does it have  
20 the ability to construct and maintain a facility, and  
21 then other good faith efforts, as well as you can also  
22 consider the types of factors that you considered in  
23 the original licensure of the racetrack.

24 Now, the good faith efforts is where the  
25 Commission did a lot of work and the things that it

1 specifically designated as evidence of good faith  
2 efforts are securing financial commitments to fund the  
3 construction of the racetrack; securing the real  
4 property of the racetrack, either through ownership or  
5 through a long-term lease; entering into contracts for  
6 construction; getting the Commission's approval of the  
7 construction plans; getting the permits and utilities  
8 necessary; and beginning and sustaining construction.

9 Now, those are not limiting things. You  
10 are also able, under the rule, to consider other  
11 factors that you deem to be considered as good faith  
12 efforts.

13 Now, if you decide to not renew it, it  
14 has to be because it's not in the best interest of the  
15 racing industry or the public to renew the license or  
16 that the license holder in your view has failed to make  
17 good faith efforts to conduct live racing.

18 And then there are, at the bottom of page  
19 92, a listing of the types of factors that would  
20 support nonrenewal.

21 If a particular factor exists or doesn't  
22 exist, it doesn't require you to either renew or not  
23 renew the license. So the mere presence of, for  
24 example, a nonrenewing factor does not require you to  
25 vote to not renew it.

1                   Now, at this point I think that the  
2 racetracks would be in a better position to represent  
3 their applications, but I'm happy to answer any  
4 questions you have about the process.

5                   MS. O'CONNELL: Mark, did any of the  
6 inactive tracks ever approach the Commission staff  
7 about the option of trying to become an active-other  
8 through the bond process?

9                   MR. FENNER: No, ma'am, not in this  
10 process they have not; and as I recall during the  
11 original designation of the licenses inactive or  
12 active, I did not perceive any interest in pursuing  
13 that alternative either.

14                   MS. O'CONNELL: And so under that  
15 alternative, the bond amount is \$400,000 and a track  
16 would have to apply for race dates and have active race  
17 dates and then put up a bond to show their commitment  
18 to running the dates.

19                   MR. FENNER: That's exactly right. And  
20 if they fail to follow through on either the  
21 simulcasting or the live race dates, then that \$400,000  
22 would be forfeited and would be escrowed in the purse  
23 account and available to the Commission for  
24 distribution to the racetracks for purses.

25                   MS. O'CONNELL: Okay. So under that

1 option, if the track does not end up fulfilling their  
2 commitment, the horsemen have still been able to have  
3 some relief while they're waiting for the track to be  
4 built.

5 MR. FENNER: That's correct. And if they  
6 fulfill their commitments, then the bond would be  
7 returned to the association.

8 MS. O'CONNELL: Okay. And if they become  
9 an active-other, then they are not subject to this  
10 annual inactive renewal process because they're not  
11 inactive. Is that right?

12 MR. FENNER: That's true. Once you  
13 become active, either operating or other, then you're  
14 subject to an ownership and management review every  
15 five years, but you're not subjected to this type of  
16 annual review and renewal process.

17 MS. O'CONNELL: Okay. Thank you.

18 MR. FENNER: You're welcome.

19 CHAIRMAN SCHMIDT: Any other questions of  
20 Mr. Fenner?

21 Mr. Fenner, I had one question. When did  
22 we implement the new financial program as recommended  
23 by sunset? Was that the 1st of September of last  
24 year?

25 MR. FENNER: The elimination of the

1       outs?

2                   CHAIRMAN SCHMIDT: Elimination of the  
3       outs and the assessment of additional dues to the  
4       track.

5                   MR. FENNER: Mr. Jackson would probably  
6       be able to answer the timing question better.

7                   MR. JACKSON: Well, the elimination of  
8       the outs was made during the Sunset Commission -- the  
9       one that we didn't make it.

10                  MR. FENNER: September 1, '11.

11                  MR. JACKSON: Yeah. But the  
12       implementation of the finance piece of it would have  
13       been January of that year because we had a finance  
14       committee chaired by Commissioner Hicks where we went  
15       through the new fee process and it came before the  
16       rules committee after that and it was adopted and put  
17       into place for January.

18                  CHAIRMAN SCHMIDT: Have any of the  
19       inactive tracks missed their payments to us?

20                  MR. JACKSON: No. They have all paid.

21                  CHAIRMAN SCHMIDT: Okay. They've all  
22       paid.

23                  COMMISSIONER STEEN: Can you give a quick  
24       summary of the fees for the inactive tracks?

25                  MR. JACKSON: Yes, sir. An inactive

1 Class 2 horse racetrack annual fee is 230,000 per year  
2 paid -- it must be paid on September 1st of the fiscal  
3 year in a lump sum.

4 If you're an active track, your fees  
5 are -- your annual fee is prorated over a 12-month  
6 period and it's paid, you know, an incremental amount  
7 each month on the 1st of the month. And at the end of  
8 the year, if we have -- if our expenditures don't match  
9 our appropriations and we've overcollected, we issue a  
10 moratorium on fees and those tracks who pay monthly  
11 will see that moratorium by not having to pay those  
12 fees and their fees would thus go down.

13 CHAIRMAN SCHMIDT: Any other questions of  
14 Mr. Fenner?

15 Ms. Young for -- speaking on behalf --  
16 representing Laredo Race Park?

17 Andrea?

18 MS. YOUNG: I sat up front so I could  
19 come up here as many times as possible today.

20 This is in regards to our license at  
21 Laredo Race Park. There is a letter that we took a lot  
22 of time in your packet to prepare that I think outlines  
23 the case for renewal of Laredo Race Park's license.

24 We have had the license for about five  
25 years now. We have encountered, like everybody has in

1 the industry over the last couple of years, what we  
2 view to be a very difficult market to get off the  
3 ground in. We continue to pursue all sorts of changes,  
4 both on the local level and in particular in the  
5 regulatory arena, in the State Legislature, and even in  
6 meetings with staff to see if there are new and  
7 creative opportunities.

8 We believe we have an excellent  
9 management team, excellent partners in MAXXAM and Penn  
10 National, both of whom have undergone very thorough  
11 reviews over the last couple of years because of the  
12 transaction when Penn acquired a 50 percent interest in  
13 the businesses in 2011.

14 We will continue to work with the  
15 industry. We will continue to pay our fees in a timely  
16 manner. And we look forward to, you know, a more -- a  
17 healthier environment in the future.

18 I'm happy to answer any other questions  
19 you may have.

20 MS. O'CONNELL: When did you all first  
21 start looking for a different location for your  
22 license?

23 MS. YOUNG: I would say, for me  
24 personally, I got involved in Laredo Race Park around  
25 2009 and it would have started probably just before

1 that. And there's a couple of locations, one in which  
2 we got very, very close with that we were not able to,  
3 unfortunately, push across the finish line.

4 MS. O'CONNELL: So four years of looking,  
5 but no success so far.

6 MS. YOUNG: That's correct. Well, it's  
7 not just so much looking for the site. It's about  
8 putting together a program that works in the current  
9 environment. So I mean, the two aren't, you know,  
10 mutually exclusive. So we do maintain rights to the  
11 current land site. We maintain an option. And we do  
12 have land, if that's one of the questions you're  
13 asking.

14 MS. O'CONNELL: Thank you.

15 MS. YOUNG: It's just not -- you know,  
16 we'd like to find something better.

17 CHAIRMAN SCHMIDT: It seems like a real  
18 issue for you. And I don't want to put words in your  
19 mouth. But you don't think right now it's an  
20 economically viable plan to go forward.

21 MS. YOUNG: There's no question. I think  
22 you'll probably hear that over and over today.

23 VICE-CHAIRMAN EDERER: Your new owners,  
24 Penn National, certainly it's still on the table. They  
25 are still considering this for the future.

1 MS. YOUNG: Absolutely, no question.

2 And, you know -- no question.

3 COMMISSIONER EDERER: They really haven't  
4 had much time to really consider it.

5 MS. YOUNG: I mean, they're a big company  
6 with a lot of things on their plate, but --

7 VICE-CHAIRMAN EDERER: They've been  
8 there, what, a year?

9 MS. YOUNG: Almost two years. But I  
10 think we -- you know, it's really my responsibility to  
11 go to them all the time with new ideas and creative  
12 solutions. And, you know, we continue to do that.

13 CHAIRMAN SCHMIDT: Any further questions  
14 of Andrea?

15 Ms. Young, thank you very much.

16 MS. YOUNG: Thank you.

17 CHAIRMAN SCHMIDT: We'll have two  
18 speakers regarding Longhorn Downs, first Mr. Bryan  
19 Brown. He's representing Longhorn Downs, Inc.

20 MR. BROWN: Good morning, Mr. Chairman  
21 and Commissioners. Bryan Brown with KTAGS Downs  
22 Holding Company, LLC, the recognized owner of the  
23 Longhorn Downs, Inc. stock by the Texas Racing  
24 Commission.

25 I think our application demonstrates that

1 we meet the criteria for renewal of this license, the  
2 primary ones Mr. Fenner went over. The financial  
3 stability we have demonstrated in our application. And  
4 just to add to what has been previously been provided  
5 to the Commission, Cliff Thomas, who has agreed to fund  
6 the efforts through Longhorn Downs and the Creedmoor  
7 site, recently sold about 130 convenience stores to  
8 7-Eleven. So you'll see in Austin and San Antonio and  
9 other areas 7-Eleven signs have popped up. A lot of  
10 those were formerly stores owned by Mr. Thomas's Speedy  
11 Stop subsidiary.

12 That's provided Mr. Thomas with a  
13 tremendous amount of liquidity and even greater ability  
14 than before to follow through with the requirements of  
15 building a racetrack.

16 We've demonstrated, I believe, in the  
17 application the ability to conduct live racing, the  
18 ability to construct a facility, and then certainly  
19 numerous good faith efforts. The primary one is  
20 purchase of land for cash in the Creedmoor location. I  
21 think that was a big one from the start, that  
22 Mr. Thomas wanted to demonstrate his commitment to this  
23 Commission and following through with ultimate  
24 construction of a facility.

25 Just to update you on the litigation,

1       which is the thing that's holding us back from moving  
2       forward, there were three cases filed. One was in  
3       Austin. That case was dismissed. There was a case  
4       filed in Dallas where a take-nothing judgment was  
5       issued. That decision was appealed to the Dallas Court  
6       of Appeals. The Dallas Court of Appeals sided with the  
7       plaintiff, Dallas City Limits, and remanded -- I mean,  
8       I use the word "remanded". I hope that's the right  
9       word -- but sent the case back to the original Court  
10      for a new judgment to be issued by that Court. There's  
11      a hearing in that case set for September 5th.

12                 There was a third case in Houston that  
13      was filed by Austin Jockey Club asking for release of  
14      the Longhorn Downs, Inc. stock back to the Austin  
15      Jockey Club. That case is still in the Appeals Court.  
16      That case was appealed by Dallas City Limits after the  
17      original Trial Court had ruled in favor of the Austin  
18      Jockey Club. There's a hearing set in that case on  
19      September 24th.

20                 So as we go through the litigation  
21      involved, we'll keep with our efforts to move forward,  
22      keep the efforts that we've had with the community of  
23      Creedmoor with leadership, which those relationships  
24      continue to be very positive. The leadership in  
25      Creedmoor continues to be very excited about the

1 prospects of our racetrack.

2 I'll be happy to answer any questions  
3 that you have.

4 CHAIRMAN SCHMIDT: Thank you, Mr. Brown.  
5 Any questions by the Commissioners?

6 MR. BROWN: You all are too easy today.

7 CHAIRMAN SCHMIDT: Thank you, sir.  
8 Representing Dallas City Limits, Snapper  
9 Carr.

10 Mr. Carr?

11 MR. CARR: Mr. Chairman, Commissioners,  
12 my name is Snapper Carr. I'm an attorney here today  
13 representing Dallas City Limits. Thank you for this  
14 opportunity.

15 The Commission has actually pulled off a  
16 pretty monumental day today. They've gotten the  
17 parties of this license -- Dallas City Limits is here  
18 in support of renewal of this license. I think this  
19 might be the first time in several years that the  
20 parties have agreed on something in this matter. So  
21 congratulations at least for that accomplishment.

22 We are here in support of renewal of this  
23 license. We would say that we believe and continue to  
24 believe and the Courts have supported that belief all  
25 the way up through the Supreme Court being asked to

1 review the Dallas Court of Appeals matter which this  
2 Commission filed briefs in. The Supreme Court rejected  
3 that review and affirmed the Court of Appeals  
4 decision.

5 As we've noted, there is a light at the  
6 end of the tunnel. There is a motion for judgment  
7 which was -- Mr. Brown properly noted was the Court of  
8 Appeals remanded this issue to the Dallas case on the  
9 issue of whether or not the contractual purchase  
10 agreement between Austin Jockey Club and Dallas City  
11 Limits is still in effect.

12 And in essence, the jury found in that  
13 matter at the Trial Court level, after a trial and  
14 evidence was presented, that indeed it was and that  
15 Austin Jockey Club had breached that agreement.

16 We stated that February 7th, 2012, to  
17 this Commission when we asked you not to move forward  
18 with a transfer that we felt was premature to KTAGS,  
19 although that's where we find ourselves today. And so  
20 although in a perfect world we believe that Austin  
21 Jockey Club and Longhorn Downs would be the ones  
22 submitting this application today asking for it to be  
23 renewed, in essence, KTAGS is acting as an agent.

24 We do not believe that this Commission,  
25 as the Court of Appeals rightly pointed out, has the

1 ability to adjudicate private contractual matters. We  
2 agree a hundred percent. And there were some  
3 assertions, I believe, in the renewal application and  
4 some of the documents provided to you all today that  
5 stated that, in essence, if this Commission says no to  
6 the transfer of a license to Dallas City Limits, the  
7 Commission's decision trumps any contractual rights  
8 between Dallas City Limits and Austin Jockey Club.

9 We do not disagree with the first part of  
10 that statement. This Commission gets to determine who  
11 is the rightful and qualified license holder. What we  
12 would have a problem with, and continue to, and we'd  
13 like to try to make this distinction as clear as  
14 possible is that this Commission does not have the  
15 ability to adjudicate the private contract that was  
16 entered into.

17 You get to issue the license. You get to  
18 say whether Dallas City Limits is qualified to hold the  
19 license to operate. That being said, let's play this  
20 out for a moment. You deny Dallas City Limits' attempt  
21 to reach that. They have remedies underneath the  
22 contract that they entered into. They can assign it to  
23 other parties. They can sell it. They can say let's  
24 just let it go away and all parties lose the investment  
25 that they've made. Those are the options that they

1 have under a contract that are outside the scope of  
2 this Commission.

3 We believe, as we've continued to ask,  
4 that this Commission should revisit that February 7th  
5 decision. All of that being said, we do not believe --  
6 and the parties involved have all sincerely moved  
7 forward with a good faith effort to make this racing  
8 possibility happen and with furtherance of the  
9 industry.

10 So I do believe that all the parties  
11 involved and the evidence that you have before you  
12 today and certainly the expenditures that Dallas City  
13 Limits have continued to make in furtherance of trying  
14 to advance this license are an indication that there  
15 are involved stakeholders that want to bring this  
16 forward and move forward.

17 Where we have the problem is that we  
18 believe there was some premature action taken, that  
19 this matter probably should have been tolled in terms  
20 of the transfer until there was clear evidence.  
21 History has supported our position that we put forward  
22 to you on February 7th of 2012 when it was testified to  
23 this Commission shortly before you made that transfer  
24 that the Houston Court of Appeals, for example, was  
25 going to -- or the Houston District Court was going to

1 release stock to KTAGS that day. That did not happen.  
2 That stock is still sitting in the registry of the  
3 Court as we speak here today.

4 There is a hearing set on that matter,  
5 too, and we fully expect, frankly, that the Houston  
6 matter, which in our opinion never should have been  
7 filed because of the trial that had occurred in Dallas,  
8 will be dismissed and quite potentially that stock  
9 transferred to a Court in Dallas pending the final  
10 issuance of a judgment by the Trial Court.

11 With that, I'm certainly happy to answer  
12 any questions. I thank you for your time in this  
13 matter.

14 CHAIRMAN SCHMIDT: Thank you, Mr. Carr.

15 Any questions from the Commissioners of  
16 Mr. Carr? Okay.

17 VICE-CHAIRMAN EDERER: Wait.

18 CHAIRMAN SCHMIDT: One question.

19 Vice-Chair Ederer?

20 VICE-CHAIRMAN EDERER: Will we have a  
21 conclusion in September?

22 MR. CARR: We will have a judgment that  
23 will rule on the contractual ownership rights in  
24 September. Now, the parties are welcome to appeal that  
25 judgment. So goes our legal system. But we will

1 certainly know if there is a -- which we believe the  
2 Court of Appeals clearly stated to respect the jury  
3 findings, that there is a stock purchase agreement in  
4 place, it's valid, and the attempted -- there was a  
5 breach on behalf of the other parties to terminate it.

6 So in September you will have a very  
7 clear indication of the contractual rights that the  
8 various parties hold as of that day.

9 VICE-CHAIRMAN EDERER: Will the decision  
10 affect both Courts?

11 MR. CARR: Yes. Absolutely. And again,  
12 we believe the Houston matter -- it was quite  
13 interesting. Just to back up on a little history  
14 because I think it's important, the other parties in  
15 this matter argued to the Houston Court that this  
16 Commission held the exclusive right to determine who  
17 was in possession of that stock. We believed that was  
18 incorrect under the law. We believe you all have the  
19 right to issue licenses to operate racing facilities.

20 They, in turn, came to you and said "I  
21 have a final judgment." And I have the transcript from  
22 the February 7th hearing. It was very clear, that they  
23 have a judgment that says they're the rightful owner  
24 and that it's final. That was what they used to say  
25 this was settled to you. The very next week they went

1 to the Houston Court and said "Release this stock to  
2 me. The Commission has issued an order."

3 VICE-CHAIRMAN EDERER: I understand. We  
4 understand. Have the cases been consolidated?

5 MR. CARR: The cases have not been  
6 consolidated. There's different issues at play.  
7 But --

8 VICE-CHAIRMAN EDERER: So we could still  
9 have two separate issues come out of this in  
10 September.

11 MR. CARR: Potentially. But the issue of  
12 who is the rightful contractual owner will be issued --  
13 there will be a judgment issued by the Trial Court that  
14 had a trial on that matter.

15 VICE-CHAIRMAN EDERER: I understand. But  
16 that can be --

17 MR. CARR: And it was affirmed by the  
18 Court of Appeals.

19 VICE-CHAIRMAN EDERER: And that could be  
20 appealed?

21 MR. CARR: Yes.

22 VICE-CHAIRMAN EDERER: Thank you.

23 CHAIRMAN SCHMIDT: Thank you, Mr. Carr.

24 For the record, if we have any questions  
25 regarding Laredo Downs, Mr. Moltz is available to

1 testify, if needed, for questions.

2 Any further discussion or questions by  
3 any of the Commissioners?

4 VICE-CHAIRMAN EDERER: Are you going to  
5 call for a motion? Where are we?

6 MS. O'CONNELL: What about Manor Downs?

7 CHAIRMAN SCHMIDT: I'm sorry. There's no  
8 word from Manor. I don't see --

9 MR. FENNER: Normally that would be  
10 Mr. Phillips.

11 CHAIRMAN SCHMIDT: I don't see  
12 Mr. Phillips in the audience.

13 MR. JACKSON: He's right there.

14 CHAIRMAN SCHMIDT: So Mr. Phillips is in  
15 the audience but has not submitted a card, in answer to  
16 your response.

17 MR. FENNER: Mr. Phillips, if you want to  
18 say something, we'll take a card later.

19 MR. PHILLIPS: Good morning,  
20 Commissioners. I'm Howard Phillips, the managing  
21 partner of Manor Downs.

22 And as an inactive Class 2 license, we  
23 are different in three distinct ways from our other  
24 license holders. One, we're not trying to relocate our  
25 license. Two, we have a facility. And three, we're

1 not in a lawsuit. But with that in mind, we are  
2 attempting to find a strategic partner, potential new  
3 ownership, and we continue to do so on a weekly basis.

4 I'd be glad to answer any questions.

5 CHAIRMAN SCHMIDT: Any questions of  
6 Mr. Phillips?

7 Thank you very much, sir.

8 MR. PHILLIPS: Thank you.

9 CHAIRMAN SCHMIDT: Thanks for updating  
10 us.

11 VICE-CHAIRMAN EDERER: I have a question  
12 or a comment. I'd like to ask you a question.

13 MR. FENNER: Yes, sir.

14 VICE-CHAIRMAN EDERER: It appears to me  
15 that at the present time status quo may be the best  
16 alternative rather than to go forward. There's a  
17 lawsuit pending. As long as there's a lawsuit pending,  
18 everybody, of course, wants the license to stay in  
19 place. I think both parties have demonstrated that  
20 they do have the ability to go forward with racing, but  
21 they're being tied up by the Courts, so they can't. So  
22 to do anything to that license at this point in time I  
23 think would be premature. So for it to stay in status  
24 quo seems to me to be the best place.

25 Manor Downs is still looking. They are

1 trying.

2 As far as Ms. Young is concerned, I  
3 believe they certainly have demonstrated the ability to  
4 go forward when the time is right.

5 So unless I'm wrong, it seems to me that  
6 to allow licenses to stay status quo at this point in  
7 time would be the best thing for us to do. Am I  
8 wrong?

9 CHAIRMAN SCHMIDT: I would like to echo  
10 your comments. I think, looking at the licenses as a  
11 whole, there's a lot of different issues and certainly  
12 I think Longhorn Downs separates themselves out simply  
13 because ownership is in question.

14 My own view is -- it's twofold. It's  
15 still a difficult economic time, very, very difficult.  
16 Lone Star, despite all its efforts, were basically  
17 neutral this year. Tracks are surviving by  
18 contracting, by reducing dates. And even with that  
19 field size, it's been a little difficult.

20 Secondly, within a relatively recent time  
21 since sunset, we have actually imposed a significant  
22 new order of financial stability to the Commission  
23 which is a significant financial commitment from the  
24 inactive tracks and I'm inclined to accept the status  
25 quo as well, since we'll renew it in a year, just with

1 the caveat that this is not a precedent. I mean, this  
2 is not -- I think we're acknowledging that the tracks  
3 have made their contributions. We've totally reordered  
4 how we've done our tracks in terms of financial support  
5 at this juncture. But simply paying the fees in the  
6 future will be no guarantee of continuing inactive  
7 status.

8 Anybody else have any other comments?

9 MS. O'CONNELL: We have some comments.

10 The comptroller is going to vote to renew all inactive  
11 licenses, but I do want to convey that the decision on  
12 Longhorn Race Park and Longhorn Downs certainly could  
13 have easily gone the other way. And because this is a  
14 new process, we are -- the comptroller is willing to  
15 give another year to all of these tracks.

16 But I think it was frustrating, I'm sure,  
17 to the other Commissioners that have been on the board  
18 for a number of years to read the inactive license  
19 renewal applications, particularly of these two tracks,  
20 because they're substantially similar to the oral  
21 reports and the paper submissions that the same tracks  
22 were giving as early as 2009.

23 We used to have -- for the benefit of the  
24 newer members, we used to have the inactive tracks give  
25 updates to the Commission every -- at every meeting, so

1 every two months we would get to hear what was going  
2 on. And, you know, we've heard since 2009 that  
3 Longhorn Downs is looking to relocate to the DFW area  
4 and we've heard since 2009 about a lot of different  
5 locations in South Texas.

6 And so I think the question in our mind  
7 is when is enough enough and how much time do we give  
8 these tracks while the horsemen are suffering. And  
9 there are other options that don't involve making, you  
10 know, huge, huge investments. There are options that  
11 involve smaller investments or, you know, simulcasting  
12 facilities that are temporary. There are other options  
13 and I think we're, you know, waiting to hear about some  
14 of those other options and we hope that we'll hear  
15 about some of those over the next year.

16 MR. FENNER: Commissioner?

17 MS. O'CONNELL: Yes.

18 MR. FENNER: May I get clarification?

19 Did you mean Laredo Downs and Laredo Race Park?

20 MS. O'CONNELL: Laredo Race Park and  
21 Laredo Downs, yes.

22 MR. FENNER: Thank you.

23 COMMISSIONER MARTIN: I want to echo  
24 those sentiments also. I'm in favor of doing the  
25 status quo, too; but again, I've been around long

1 enough to where you're hearing the same thing year  
2 after year after year.

3 CHAIRMAN SCHMIDT: Any other comments,  
4 input?

5 Any motions?

6 VICE-CHAIRMAN EDERER: A motion that  
7 we -- what would the motion be? To renew --

8 CHAIRMAN SCHMIDT: Inactive licenses of  
9 Laredo Downs, Laredo Race Park, Longhorn Downs, and  
10 Manor Downs.

11 VICE-CHAIRMAN EDERER: So move.

12 CHAIRMAN SCHMIDT: By Vice-Chair Ederer.

13 COMMISSIONER MARTIN: Second.

14 CHAIRMAN SCHMIDT: Seconded by  
15 Dr. Martin.

16 A good discussion. Any further  
17 comments?

18 All those in favor signify by saying  
19 aye.

20 COMMISSIONERS: Aye.

21 CHAIRMAN SCHMIDT: Is anyone opposed?

22 Okay. Commissioner O'Connell, based on  
23 your recommendation, I will ask the inactive tracks to  
24 update us in October and on a bi-meeting basis.

25 Okay. Committee on the rules. Rule

1 proposals, amendment to 319.5, Report of Treatment by  
2 Veterinarians. And this is considering this rule to  
3 simply publish it in the Texas Register. So this will  
4 just be the -- after the rules committee, the first  
5 go-round of the public comment.

6 Mr. Fenner, can you lay this item out for  
7 us?

8 MR. FENNER: Yes, sir.

9 The first proposal is to amend Rule 319.5  
10 which is called Report of Treatment by Veterinarians.  
11 This provides -- this rule currently provides that  
12 backside veterinarians must provide copies of their  
13 treatment records to the stewards or veterinarians  
14 within 24 hours of a request. However, it doesn't  
15 provide that -- explicitly provide that the  
16 Commission's veterinarians can get access to those  
17 records. That's really kind of inconsistent with a  
18 separate rule, 319.4, which provides that the  
19 Commission veterinarians must oversee all the  
20 veterinarians practicing at a racetrack.

21 So to facilitate the Commission  
22 veterinarians' ability to do their jobs and to address  
23 this issue of what are the stewards and racing judges  
24 going to do with veterinary records, they're going to  
25 necessarily have to ask for the assistance of the

1 Commission veterinarians in understanding what they  
2 mean.

3 This proposal would explicitly provide  
4 that the Commission veterinarians could request copies  
5 of treatment records of backside veterinarians and it  
6 also says that those records will be treated as part of  
7 the confidential investigatory files of the Commission  
8 just as all the other confidential records of the  
9 Commission are treated.

10 CHAIRMAN SCHMIDT: Thank you,  
11 Mr. Fenner.

12 This information is on page 118 of our  
13 packet.

14 Is there any public comment?

15 Commissioner O'Connell, you worked this  
16 through the rules committee.

17 MS. O'CONNELL: Yes. Ready to publish  
18 it.

19 CHAIRMAN SCHMIDT: I'll certainly  
20 entertain a motion to publish the proposed rule to  
21 amend Rule 319.15 in the Texas Register for public  
22 comment.

23 A motion by Dr. Martin.

24 MS. O'CONNELL: Second.

25 CHAIRMAN SCHMIDT: Commissioner

1 O'Connell.

2 All those in favor signify by saying  
3 aye.

4 COMMISSIONERS: Aye.

5 CHAIRMAN SCHMIDT: Those opposed?

6 That motion is also carried.

7 Now, the next three items, which I think  
8 we'll take together but as an issue, are rule  
9 adoptions. These have been published in the Register,  
10 worked through the rules committee, available for  
11 comment, and now final action.

12 Can you bring us up to date on these  
13 three items, Mark?

14 MR. FENNER: Yes, sir.

15 The change to Rule 303.41, Allocation of  
16 Race Dates, has been published and we received no  
17 public comments in response to it. This would allow  
18 the executive director to approve a racetrack's request  
19 to add, delete, or modify live race dates as long as  
20 they were within 14 days immediately before or after an  
21 existing Commission-approved race date and the race  
22 date change is supported in writing by all the affected  
23 breed organizations and associations as well as the  
24 horsemen's organization.

25 This was taken to the rules committee and

1 I believe recommended for adoption.

2           The next one is a change to Rule 309.151,  
3 Change of Ownership, Board of Directors, or Management  
4 Committee. That would allow the executive director to  
5 approve minor changes of ownership once that the DPS  
6 has been consulted and provided a report to the  
7 executive director. The executive director would  
8 always have the authority to bring it back to the  
9 Commission even if it was a very small change in  
10 ownership.

11           We did receive a comment in response to  
12 publication in the Texas Register and it was discussed  
13 at the rules committee. And the commenter observed  
14 that the proposal would only allow these minor  
15 transfers to happen when the acquiring party had less  
16 than five percent but it wouldn't apply to somebody who  
17 had more than five percent and was acquiring a tiny  
18 fractional percentage, much like what happened today  
19 with the Laredo Downs thing where they had 50 percent  
20 and they were getting a fifth of one percent, but  
21 that's the kind of thing that would be appropriate for  
22 going ahead and handling in this new manner.

23           It also excepted out that you couldn't  
24 use this provision in the case of a change that changed  
25 the control of a racetrack or that pushed somebody from

1 below five percent to five percent or more.

2 And that was taken to the rules committee  
3 and recommended.

4 The final change is a change to 309.355,  
5 Grading System. This would allow the racing judges at  
6 a greyhound track to approve additional mixed grade  
7 races if there would otherwise be an insufficient  
8 number of greyhounds on the active list to complete the  
9 scheduled performance.

10 No comments were received in response to  
11 publication in the Texas Register.

12 CHAIRMAN SCHMIDT: Mr. James has  
13 signified that he's in favor of that but does not wish  
14 to testify, but he's available.

15 So I think the simple thing to do would  
16 be to -- let's just first discuss Item C and E.

17 That's the ones without the amendment.  
18 Is that right, Mark?

19 MR. FENNER: Yes, C and E.

20 CHAIRMAN SCHMIDT: So this allows for  
21 changes of race dates provided that are not before or  
22 after the meet.

23 MR. FENNER: If they're before or after  
24 the meet, you can add them, or within the meet.

25 CHAIRMAN SCHMIDT: And then Item E is the

1 grading system, which we've worked through.

2 Any further comments on either of those  
3 issues or questions? You're all pretty comfortable  
4 with what we're voting for?

5 I'll certain entertain a motion to adopt  
6 Rule C and E as published in the Texas Register.

7 MS. O'CONNELL: So moved.

8 CHAIRMAN SCHMIDT: Moved by Commissioner  
9 O'Connell.

10 COMMISSIONER HICKS: Second.

11 CHAIRMAN SCHMIDT: Seconded by  
12 Commissioner Hicks.

13 All those in favor signify by saying  
14 aye.

15 COMMISSIONERS: Aye.

16 CHAIRMAN SCHMIDT: Okay. And then --  
17 that motion carries.

18 And then for Item D, will you again  
19 clarify the change?

20 MR. FENNER: Yes, sir.

21 CHAIRMAN SCHMIDT: If you're less than  
22 five percent, you can switch automatically.

23 MR. FENNER: Subject to review and  
24 approval.

25 CHAIRMAN SCHMIDT: If you're more than

1 five percent, the way I read Mr. Moltz's letter, good  
2 point, is you can also switch provided it does not  
3 change ownership or control.

4 MR. FENNER: It doesn't change control,  
5 right. So that person would be able to avail  
6 themselves of this same sort of executive director  
7 approval.

8 CHAIRMAN SCHMIDT: Okay. Provided all  
9 the other criteria are met.

10 MR. FENNER: Yes, sir.

11 CHAIRMAN SCHMIDT: Any further questions  
12 regarding the rule that now has been modified  
13 slightly?

14 Okay. Commissioner O'Connell, you're  
15 comfortable with that?

16 MS. O'CONNELL: Yes.

17 CHAIRMAN SCHMIDT: Great. Great.

18 I'd certainly entertain a motion to  
19 accept proposal of Rule 309.51, Change of Ownership,  
20 Board of Directors, and Management Committee, as subtly  
21 changed.

22 MR. FENNER: It's changed.

23 CHAIRMAN SCHMIDT: A motion by  
24 Commissioner O'Connell.

25 Second?

1 COMMISSIONER HICKS: Second.

2 CHAIRMAN SCHMIDT: By Commissioner

3 Hicks.

4 All those in favor signify by saying

5 aye.

6 COMMISSIONERS: Aye.

7 CHAIRMAN SCHMIDT: Those opposed?

8 That motion carries.

9 There will be no executive session.

10 Our next Commission meeting is

11 tentatively scheduled October 8th, although I have had

12 a request to consider a different date and we'll get

13 back with you in a week if that changes. We won't have

14 Carolyn to tell us what to do.

15 So the Commission is hereby adjourned.

16 Thank you.

17 (Proceedings concluded at 11:57 a.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 \_\_\_\_\_ day of August, 2013.

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SHERRI SANTMAN FISHER, Texas CSR 2336  
Expiration Date: 12-31-13  
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