



APPEARANCES

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Commissioners:        ROBERT SCHMIDT  
                             MIKE MARTIN  
                             GLORIA HICKS  
                             GARY P. ABER  
                             VICKI WEINBERG  
                             JOHN T. STEEN, III  
                             ANN O'CONNELL  
                             A. CYNTHIA LEON

1 CHAIRMAN SCHMIDT: Good morning. It's  
2 now 10:30. I'd like to call the Texas Racing  
3 Commission meeting to order.

4 Ms. Welch, can you give us the roll call,  
5 please?

6 MS. WELCH: I will.

7 Chairman Robert Schmidt?

8 CHAIRMAN SCHMIDT: Here.

9 MS. WELCH: Commissioner Ron Ederer?  
10 Commissioner Gloria Hicks?

11 COMMISSIONER HICKS: Here.

12 MS. WELCH: Commissioner Michael Martin?

13 COMMISSIONER MARTIN: Here.

14 MS. WELCH: Commissioner Vicki Weinberg?

15 COMMISSIONER WEINBERG: Here.

16 MS. WELCH: Commission Gary Aber?

17 COMMISSIONER ABER: Here.

18 MS. WELCH: Commissioner John Steen?

19 COMMISSIONER STEEN: Here.

20 MS. WELCH: Commissioner Ann O'Connell?

21 MS. O'CONNELL: Here.

22 MS. WELCH: Commissioner Cynthia Leon?

23 MS. LEON: Here.

24 CHAIRMAN SCHMIDT: We have a quorum,  
25 don't we?

1 MS. WELCH: We do.

2 CHAIRMAN SCHMIDT: We do have -- we're  
3 privileged today to have a representative from the  
4 Attorney General's office with us this morning; and to  
5 show deference to their schedule, we're going to move  
6 now into executive session.

7 So we're now entering executive session  
8 under Government Code Section 551.071 to seek the  
9 advice of the Commission's attorneys regarding pending  
10 or contemplated litigation. The executive session may  
11 include, but is not limited to, legal advice regarding  
12 Case D-1-GN-14-003700, the American Legion versus the  
13 Texas Racing Commission and Chuck Trout. We'll also  
14 seek the advice of the Commission's attorneys as  
15 privileged communications under Sections -- under  
16 Section 551.071.

17 The time is now 10:31.

18 (Recess from 10:31 a.m. to 11:01 a.m. for  
19 executive session)

20 CHAIRMAN SCHMIDT: The Commission is now  
21 reconvening out of executive session and the time is  
22 now 11:01. During the session we heard the advice of  
23 our attorneys regarding the American Legion case.

24 Public comment. Mark, has anyone turned  
25 in a testimony card?

1 MR. FENNER: No, sir, no one has turned  
2 in a card.

3 CHAIRMAN SCHMIDT: No public comment.

4 MR. FENNER: No public comment.

5 CHAIRMAN SCHMIDT: General business,  
6 update by the budget and finance, Lane Goetsch.

7 Lane?

8 MS. GOETSCH: Good morning,  
9 Commissioners. I'm here to give you the update on the  
10 budget and finance today.

11 On pages eight and nine of your agenda  
12 packet you will find the agency's fiscal year 2014  
13 operating budget reflecting collections and  
14 expenditures as of August 31st, 2014. As of that date,  
15 the agency had collected 9.83 million or 93 percent of  
16 revenues and expended 9.23 million or 85 percent of  
17 budgeted expenditures.

18 At this time the Racing Commission is in  
19 good operating condition. If you have any questions, I  
20 will be glad to answer them.

21 CHAIRMAN SCHMIDT: Any questions?

22 All right, Ms. Goetsch. I just had one  
23 in preparing for the meeting. It is, I guess, the end  
24 of our year on August 31st.

25 MS. GOETSCH: Yes.

1 CHAIRMAN SCHMIDT: We have unappropriated  
2 expenditures of 900,000 dollars and change.

3 MS. GOETSCH: Yes.

4 CHAIRMAN SCHMIDT: What's that for?  
5 That's for outstanding bills?

6 MS. GOETSCH: Yes. Now, we have Period  
7 13, we call it, open through September and October; and  
8 we also will have our encumbrances and accrued payables  
9 rolling forward. So we will be using those expenditure  
10 funds.

11 CHAIRMAN SCHMIDT: So you think you'll  
12 use them all up.

13 MS. GOETSCH: Either that or roll them  
14 forward. We are rolling some funds forward into '15.

15 CHAIRMAN SCHMIDT: Okay. Any other  
16 questions?

17 Thank you very much, ma'am.

18 MS. GOETSCH: Okay.

19 CHAIRMAN SCHMIDT: Wagering statistics,  
20 Lila Smith.

21 Ms. Smith? Welcome.

22 MS. SMITH: Good morning, Commissioners.  
23 On page 10 through 12 of your materials  
24 are the wagering statistics for the periods of January  
25 1st through October 5th for both 2013 and 2014. The

1 report reflects that in 2014 total wagering activities  
2 have increased at the horse tracks by 4.53 percent and  
3 has decreased at the greyhound racetracks by 4.43  
4 percent. Statewide the handle has increased by 3.85  
5 percent.

6 Do you have any questions?

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

9 Thank you, Ms. Smith.

10 MS. SMITH: Thank you.

11 CHAIRMAN SCHMIDT: Racetrack inspections,  
12 Jim Blodgett.

13 Jim?

14 MR. BLODGETT: Mr. Chairman,  
15 Commissioners, good morning.

16 Commissioners, the racetrack inspection  
17 report is included in your packet under the general  
18 business tab this morning. It covers a period of time  
19 from August 1st, 2014, to September 30th, 2014. At  
20 this time these inspections were conducted in the areas  
21 of veterinarian, safety and security, racing  
22 administration, wagering at Lone Star Park, Retama  
23 Park, Gulf Greyhound Park, Valley Race Park, and Saddle  
24 Brook Jockey Club. A breakdown of the inspection types  
25 included nine scheduled, one no-notice, and one

1 follow-up.

2 I'd bring your attention to two issues  
3 that remained unsatisfactory as of the reporting time.  
4 Both issues, one at Lone Star and one at Retama Park,  
5 involved the ATM machines providing cash to credit card  
6 requests. We're told that these have not been resolved  
7 at this time, but they are working to resolve the  
8 issue.

9 And I have nothing further on this  
10 report. I would be happy to answer any of your  
11 questions.

12 CHAIRMAN SCHMIDT: The machines are  
13 illegal or they're not giving the right --

14 MR. BLODGETT: No. As required by our  
15 rules, they cannot dispense cash for credit card  
16 requests. I'm told that that is a flaw in the  
17 programming. Curley Trahan is here that could better  
18 address that issue if you had any specific questions on  
19 it.

20 CHAIRMAN SCHMIDT: Any other questions of  
21 Jim?

22 Thank you, Jim. Thank you very much.

23 Mr. Speight, enforcement report?

24 MR. SPEIGHT: Good morning,  
25 Commissioners.

1           On page 14, the only thing I'd like to  
2 point your attention to is in the notes. We had six  
3 Class 1 drug violations that ended in -- that resulted  
4 in 10,000 in fines and a one-year suspension. And we  
5 hadn't had any since 2012, so we're on the lookout for  
6 Class 1 type offenses.

7           CHAIRMAN SCHMIDT: Any questions of  
8 Mr. Speight?

9           Thank you, Joel. Thank you very much.

10          Okay. Item B, approval of the internal  
11 audit plan for fiscal year 2015.

12          Mr. Rufus, can you present your plan for  
13 us? Welcome.

14          MR. GONZALES: Good morning,  
15 Mr. Chairman, Commissioners. My name is Robert  
16 Gonzales and I'm here to represent the CPA firm of  
17 Monday N. Rufus, PC, as the internal auditor for the  
18 Texas Racing Commission. Mr. Rufus couldn't make it,  
19 so that's why he sent me today. He got tied up.

20          As internal auditor, we are required by  
21 the Texas Internal Auditing Act to prepare an audit  
22 plan and present it to the governing board for  
23 approval. And this would be the fiscal year 2015  
24 Internal Auditing Act.

25          In order for us to prepare an audit plan,

1 we have to prepare a risk assessment, which entails  
2 reviewing the agency's strategic plan, legislative  
3 appropriation reports, annual financial reports,  
4 operating budget reports, other audit reports from the  
5 State auditors, the LBB, the Sunset Commission, and  
6 basically everything that pertains to the agency.

7           Additionally, we did interview some of  
8 the division heads or surveyed some others. And based  
9 upon that information, we came up with what we consider  
10 areas of interest, which used to be auditable units --  
11 we like to call them areas of interest -- which are on  
12 page nine of the internal audit plan before you.

13           We also used eight risk factors on each  
14 of these areas of interest and they're listed on page  
15 10. They would be exposure factor level for each area,  
16 complexity, materiality, quality of controls, changes  
17 in systems and processes, result of last audit, extent  
18 of other controls or coverage, and normal audit  
19 intervals. We assigned a score of one to five to each  
20 risk factor and then we used those numbers against the  
21 areas of interest.

22           After computing the total risk, we rank  
23 them as high risk, moderate risk, and low risk. It's  
24 worth mentioning that if an area of interest is  
25 considered high risk, that doesn't necessarily mean

1 that it's being poorly run or that there's a concern to  
2 be worried about. It's just that once you compile the  
3 computation of all those eight factors into that area,  
4 it comes out high.

5 A good example would be, if you have a  
6 low risk area and it hasn't been audited in five years,  
7 then you have to assign it a high risk of five just by  
8 the mere fact that it hasn't been looked at in five  
9 years. So that doesn't necessarily mean there's  
10 something wrong with it.

11 After computing all the risk assessment  
12 areas, we're recommending the following areas for audit  
13 in fiscal year 2015 which are on page 11. The areas  
14 are drug testing and an audit follow-up on prior year's  
15 recommendations, which was on payroll and personnel  
16 processes.

17 I'd be more than happy to entertain any  
18 questions you all may have.

19 CHAIRMAN SCHMIDT: I just had one  
20 question. I went through this.

21 MR. GONZALES: Yes, sir.

22 CHAIRMAN SCHMIDT: And I saw your  
23 criteria. In layman's terms, for a non-accountant,  
24 non-auditor, why is drug testing at high risk? Is it  
25 because there's a lot of tests?

1 MR. GONZALES: We haven't looked at it  
2 before and there are a lot of other enforcement  
3 entities that are involved at the same time, and we  
4 basically just want to make sure that the agency is  
5 following the policies and procedures or if there's  
6 reasons to enhance it.

7 There's not anything in particular that  
8 we're looking at because we are aware that there are  
9 other entities involved even in the operation -- on the  
10 daily operations of it. So that's one of the reasons  
11 that we're doing it.

12 CHAIRMAN SCHMIDT: Thank you.

13 Any other questions? Do we have any  
14 questions of Lane Goetsch regarding this? No?

15 Thank you very much, sir.

16 MR. GONZALES: Thank you.

17 CHAIRMAN SCHMIDT: Any public comment?

18 MR. FENNER: No.

19 CHAIRMAN SCHMIDT: Okay. Any discussion  
20 by the Commissioners, any comments, thoughts?

21 If not, I'll certainly approve a motion  
22 to -- I'll certainly entertain a motion to approve the  
23 internal audit plan for fiscal year 2015.

24 COMMISSIONER HICKS: I'll make the  
25 motion.

1                   CHAIRMAN SCHMIDT: A motion made by  
2 Mrs. Hicks, Commissioner Hicks.

3                   COMMISSIONER WEINBERG: Second.

4                   CHAIRMAN SCHMIDT: Seconded by  
5 Commissioner Weinberg.

6                   All those in favor signify by saying  
7 aye.

8                   COMMISSIONERS: Aye.

9                   CHAIRMAN SCHMIDT: Anyone opposed?

10                  That's passed.

11                  The next item is a memorandum of  
12 understanding with the Texas Veterinary Medical  
13 Diagnostic Laboratory for the fiscal year 2015.

14                  Mr. Fenner, could you lay this out for  
15 us, sir?

16                  MR. FENNER: Yes, sir.

17                  Commissioners, the Racing Act provides  
18 that the drug testing done of the race animals will be  
19 conducted by the Texas Veterinary Medical Diagnostic  
20 Lab. It also provides that the charges for the drug  
21 testing will be paid by the associations and that the  
22 Commission reviews the invoices to make sure the  
23 charges are reasonable. As part of that process, we  
24 enter into a memorandum of understanding with TVMDL  
25 each and every year.

1                   Now, this MOU has been updated in a  
2 number of respects, partly because TVMDL is making some  
3 changes that include even greater accuracy and  
4 effectiveness of the testing program. For example, the  
5 MOU reflects that they are going to be moving from  
6 screening using an ELISA drug testing system to using  
7 an instrumental analysis or LC/MS. This is -- the  
8 LC/MS is more accurate, can reach greater sensitivity  
9 levels, and you can test for more drugs at the same  
10 time. The MOU is also incorporating the possibility of  
11 testing different types of biological substances, such  
12 as ocular fluid.

13                   Also we've set a goal in the MOU for  
14 Quarter Horse trials whereby TVMDL will try to return  
15 the results from those trials within seven calendar  
16 days of receipt of the sample. Otherwise, the prices  
17 set out in the MOU are exactly the same and we're  
18 forecasting the same level of workload.

19                   Travis Mays is here from TVMDL. He may  
20 be able to give you some more reports about  
21 developments at the lab.

22                   I'll be happy to answer any questions you  
23 have.

24                   CHAIRMAN SCHMIDT: Questions of Mark?

25                   COMMISSIONER ABER: I'd like to talk to

1 him.

2 CHAIRMAN SCHMIDT: Mr. Mays, can you come  
3 up for us? Welcome.

4 MR. MAYS: Good morning.

5 CHAIRMAN SCHMIDT: Commissioner Aber?

6 COMMISSIONER ABER: I've got to commend  
7 you first for doing the Quarter Horse deal with the  
8 seven days so that when you have the trials, you know  
9 that you'll have a positive or a negative test before  
10 the finals.

11 And on this -- I want to ask the status  
12 of your accreditation with the ARCI.

13 MR. MAYS: Yes, sir. I'm happy to report  
14 that we received our accreditation for ISO 17025  
15 effective September the 24th and now we are planning  
16 preparations for RMTTC accreditation. We are expecting  
17 to submit our application for RMTTC accreditation within  
18 the next two weeks. And depending upon how long that  
19 process takes -- I don't really have a time frame as to  
20 when the actual site visit would occur, but it appears  
21 that we hope to have that happen by the end of the  
22 calendar year.

23 COMMISSIONER ABER: Very good.

24 CHAIRMAN SCHMIDT: How many labs across  
25 the country are RMTTC --

1 MR. MAYS: To my knowledge, I believe  
2 there's six.

3 CHAIRMAN SCHMIDT: There's six?

4 MR. MAYS: Yes, sir.

5 CHAIRMAN SCHMIDT: So we would be the  
6 seventh.

7 MR. MAYS: Correct.

8 COMMISSIONER MARTIN: Is everything else  
9 going good up there?

10 MR. MAYS: Yes, sir. There's been some  
11 significant changes in a positive direction. We've had  
12 some new leadership, personnel changes within the drug  
13 testing lab to accommodate the testing that needs to be  
14 done. And in order to make efforts to be able to  
15 improve our processes, we've invested quite a bit of  
16 money -- I say "we". The lab has invested quite a bit  
17 of money to purchase new instrumentation to allow us to  
18 increase our sensitivity as well as our ability to test  
19 for more compounds and increase our workload as well.

20 So the overall organization of the drug  
21 testing lab is significantly improved and I believe  
22 we're headed in a very, very good direction.

23 COMMISSIONER ABER: I want to ask you one  
24 question about the ocular fluid.

25 MR. MAYS: Yes, sir.

1                   COMMISSIONER ABER: The way I understood  
2 it when we went to a meeting, they had to have the  
3 whole eyeball. Is that true?

4                   MR. MAYS: No, sir. We can take the  
5 whole eyeball and extract the ocular fluid ourselves or  
6 it can come from the track. A veterinarian can extract  
7 the ocular fluid at the track and submit the ocular  
8 fluid that way. Either method is okay. But here  
9 recently, most of the samples have been ocular fluid  
10 that's already been removed from the eyeball.

11                   COMMISSIONER ABER: Could you explain to  
12 me why you went away from the ELISA and went to the gas  
13 chromatography?

14                   MR. MAYS: Sure. The ELISA testing,  
15 first of all, is very expensive. Those kits are not  
16 cheap. And right now we rotate 36 kits every week and  
17 we have about 80 kits total that we rotate through each  
18 week for the month. So that's one of the primary  
19 reasons we're trying to eliminate -- phase out the  
20 ELISA testing and go more towards the instrumental  
21 testing.

22                   From a screening perspective, the ELISA  
23 testing has a lot of cross-reactivity where it can pick  
24 up on compounds that may interfere with the drug and  
25 may act like a drug but not really be the drug. So it

1 costs us time and effort to try and chase that down  
2 when, in fact, it ends up not being confirmed. Whereas  
3 with the instrumental screening, we're able to screen  
4 for over 300 drugs in each sample at one time and so we  
5 have much more accuracy in determining whether a drug  
6 is truly present or, as we refer to it, suspicious and  
7 then proceed with confirmation testing.

8                   It's basically a technology shift. I  
9 mean, ELISA testing is good for certain things, but  
10 sensitivity is one of the problems. We can't get as  
11 low of testing at those picogram per ml levels, if you  
12 will, with ELISA testing as we can with  
13 instrumentation.

14                   COMMISSIONER ABER: Would you go over for  
15 me like the cost on some of this stuff? And I'm  
16 particularly concerned about the paired sample. They  
17 were extremely high when somebody had to send off a  
18 paired sample. What do you all charge for like a  
19 sample coming from another track?

20                   MR. MAYS: Sure. Our current fee is  
21 \$650. The primary reason for that increased amount is  
22 because of the amount of work that has to go into the  
23 confirmation testing for that sample. We have to  
24 prepare a full calibration curve and positive and  
25 negative controls, and so the amount of work and time

1 that goes into trying to confirm those samples is  
2 significantly increased from routine sample testing.

3 COMMISSIONER ABER: What is that charge  
4 for the Thoroughbreds? \$444 per sample, \$444 on a  
5 stakes race for Thoroughbreds?

6 MR. MAYS: One of the primary reasons for  
7 that is because we test for every ELISA kit that we  
8 have. So we're not doing just 36 that we would a  
9 regular weekly sample. We're testing for all 80 kits.  
10 So therefore, the cost is significantly increased on  
11 our end because of the number of kits that we test for  
12 and screen for.

13 MR. TROUT: If I may, sir, that is a TOBA  
14 requirement. It's a Thoroughbred Owners and Breeders  
15 Association requirement. That's not our requirement.

16 CHAIRMAN SCHMIDT: Any other questions?

17 Thank you very much. Thanks for coming  
18 up from College Station.

19 COMMISSIONER MARTIN: Thank you for your  
20 hard work.

21 CHAIRMAN SCHMIDT: Any discussion by any  
22 of the Commissioners, any thoughts?

23 I actually just wanted to publicly  
24 acknowledge Dr. Martin and Dr. Aber for working with  
25 the folks down at College Station to really upgrade

1 their lab facility. There's a lot of hours, a lot of  
2 detail. And the Commission is very, very appreciative  
3 of both of your efforts.

4 COMMISSIONER MARTIN: The college really  
5 did a good job, really stepped up, and I have to  
6 commend them for their hard work in getting things back  
7 up to where they needed to be.

8 CHAIRMAN SCHMIDT: To be one of seven  
9 will be a good place.

10 Any comments? Any motion?

11 I'll certainly entertain a motion to  
12 approve the memorandum of understanding with the Texas  
13 Veterinary Medical Diagnostic Laboratory for fiscal  
14 year 2015.

15 COMMISSIONER MARTIN: I make a motion.

16 CHAIRMAN SCHMIDT: Dr. Martin.

17 COMMISSIONER ABER: Second.

18 CHAIRMAN SCHMIDT: Dr. Aber.

19 All those in favor signify by saying  
20 aye.

21 COMMISSIONERS: Aye.

22 CHAIRMAN SCHMIDT: Anyone opposed?

23 That's passed.

24 Proceedings on rulemaking, discussion and  
25 possible action, proposal for new Commission Rule

1 309.13, Temporary License to Conduct Racing.

2 Mark, can you lay out the proposed  
3 amendment, please?

4 MR. FENNER: Yes, sir.

5 Commissioners, this proposed new rule  
6 would outline the process for the issuance of a  
7 temporary license to conduct racing at a location other  
8 than the designated location. At Saddle Brook Park's  
9 request, the rule also contains a provision that would  
10 allow the Commission to grant a two-year extension of a  
11 temporary license.

12 The rule was published in the Texas  
13 Register on June 27th of 2014 and the rules committee  
14 invited discussion at its July 29th meeting. We did  
15 receive two written comments in support and one oral  
16 comment in opposition, and the City of Amarillo  
17 originally submitted written comments in opposition to  
18 the proposed rule.

19 We now have before us a request by Saddle  
20 Brook Park to amend the proposed rule and to adopt it  
21 with these changes. Those are highlighted on pages 42  
22 and 43 of your packet.

23 The first change they requested is to  
24 limit the Commission to issuing a one-time-only  
25 extension of the original temporary license. And the

1 second change would require the Commission to take  
2 action on a request for an extension within four months  
3 of the licensee's request for an extension. I think  
4 these changes were made as a result of discussions with  
5 the City of Amarillo; and as a result, the City of  
6 Amarillo has withdrawn its earlier objection.

7 I would tell you that I have provided you  
8 a separate confidential memorandum to you expressing  
9 staff's opposition to support of the rule, but at this  
10 point it's up to the Commission to decide.

11 CHAIRMAN SCHMIDT: Thank you, Mark.

12 We're going to change the order per  
13 request of Saddle Brook. Marsha Rountree?

14 Marsha, are you here?

15 MS. ROUNTREE: I don't need to testify.  
16 We'd just like to go on record that --

17 CHAIRMAN SCHMIDT: You're on record as  
18 for?

19 MS. ROUNTREE: -- the Texas Horsemen's  
20 Partnership supports it.

21 CHAIRMAN SCHMIDT: And Mary Ruyle?

22 You would like to testify, right, Mary?  
23 The Texas Thoroughbred Association.

24 MS. RUYLE: Good morning, Commissioners.  
25 Mary Ruyle with the Texas Thoroughbred Association.

1           The TTA board of directors has reviewed  
2 the proposed TRC Rule 309.13, Temporary License to  
3 Conduct Racing, and has voted to support this rule. We  
4 believe that its passage will be of assistance in  
5 growing purses and state-bred funds for all breeds of  
6 horses in Texas and encouraging the breeding, owning,  
7 and training of racehorses in Texas.

8           It will also provide some much needed  
9 financial assistance for the operators of Saddle Brook  
10 Park so that a racetrack for live racing can be  
11 constructed in Amarillo, providing opportunities for  
12 live racing and promotion of the sport in this vastly  
13 underserved area of Texas.

14           If you have any questions, I'd be happy  
15 to answer them.

16           CHAIRMAN SCHMIDT: Thank you, Ms. Ruyle.

17           MS. RUYLE: Thank you.

18           CHAIRMAN SCHMIDT: Are there any  
19 questions of Ms. Ruyle?

20           Thank you.

21           And Rob Werstler with the Quarter group?

22           MR. WERSTLER: Good morning,  
23 Mr. Chairman, Commissioners. My name is Rob Werstler.  
24 I'm representing the Texas Quarter Horse Association  
25 today. I'm just here to reaffirm the Texas Quarter

1 Horse Association's support of the rule proposal by  
2 Saddle Brook Park.

3 I wanted to add a few things. Talking  
4 with my colleagues in Amarillo at AQHA, they tell me  
5 they've been working closely with Saddle Brook Park and  
6 the people at Saddle Brook Park have reached out to  
7 them to help Saddle Brook Park increase their wagering  
8 and they have done so. From what I understand, they  
9 are up 17 percent over last year. So they are  
10 developing a new market here in Texas that I think is  
11 invaluable to our industry.

12 And I just wanted to point out a couple  
13 of other things. There are some positive things  
14 happening in Texas right now, which we're not used to  
15 in the horse racing and breeding industry very often.  
16 But I don't know if you read -- last week there was a  
17 press release from Lone Star Park where they have  
18 increased purses at the Quarter Horse meet by 10  
19 percent. Now, Lone Star Park has received some purses  
20 that were generated at Saddle Brook Park, so they have  
21 definitely been part of the solution.

22 Another thing that really doesn't have a  
23 whole lot to do with Saddle Brook Park other than the  
24 fact that they're in Amarillo and working closely with  
25 the AQHA -- and the AQHA are the ones that vote to

1 award the Challenge Championships -- also there was a  
2 press release last week that Lone Star Park has been  
3 awarded the 2015 Challenge Championships from the  
4 American Quarter Horse Association.

5           For those of you that don't know, that's  
6 basically the Quarter Horse world championships. It  
7 hasn't been back to Lone Star or Texas since 2006. We  
8 used to have it every other year. So that's another  
9 extremely positive light shone on Texas and we're  
10 really happy for that.

11           I'm also here just to answer any  
12 questions you may have from us.

13           CHAIRMAN SCHMIDT: Any questions?

14           Congratulations.

15           MR. WERSTLER: Thank you. Thank you.

16           CHAIRMAN SCHMIDT: Next, Mr. Brian Newby  
17 with Cantey Hanger in Fort Worth on behalf of Saddle  
18 Brook.

19           MR. NEWBY: Mr. Chairman, Commissioners,  
20 I'm going to ask Jeff Hooper to pass out just a very  
21 short PowerPoint. You have a copy, I believe, of our  
22 PowerPoint in your package. Some of the information is  
23 slightly updated, so I wanted to give you the latest.

24           Mr. Chairman, I've got the next two items  
25 on your agenda, so I thought what I would do is go

1 ahead and kind of combine the presentations on both of  
2 them together to make it a little bit easier for  
3 everybody.

4 CHAIRMAN SCHMIDT: That will be great.  
5 We've got plenty of time.

6 MR. NEWBY: First off, let me thank the  
7 chairman, Mr. Trout, and Mr. Fenner for allowing this  
8 particular rule to get laid out for you and have it  
9 published in the Texas Register.

10 As you know, part of the process that  
11 we're looking at is if Saddle Brook is allowed the  
12 extension of its temporary license, we need to ensure  
13 that it is in the best interest of the public. And  
14 that's the reason that we're here. And that's why it  
15 was important that you heard the horse industry talk  
16 about this rule, because we do believe it is exactly  
17 that. It is in the best interest of the public and in  
18 the best interest of racing in general.

19 Looking at the first page of the  
20 PowerPoint that I provided to you, we've worked very  
21 hard with the Texas Racing Commission in the drafting  
22 of this particular rule; and they've asked that as part  
23 of this process, we come up with a plan, a plan on how  
24 we ensure that after the issuance of this temporary  
25 rule that Saddle Brook is able to then lead to the

1 opening of its track in Amarillo.

2           The key is we've also worked with the  
3 Amarillo city officials to ensure that we're crafting  
4 and drafting a rule that meets their requirements that  
5 also receives their support and we believe we have that  
6 support and the support letters are in your package.

7           The benefits to Texas and the benefits to  
8 the horse industry are listed on that next slide that  
9 you see; and the numbers, I think, are very, very  
10 good. What you see are nearly 557,000 for the  
11 horsemen's purse account. Saddle Brook has had a very,  
12 very positive impact on the industry, both the  
13 industry, the State, and the City of Amarillo. You see  
14 things like big numbers, \$460,000 in licensing fees,  
15 approximately 57,000 in mutuel tax revenues, nearly  
16 80,000 for the accredited horse bred programs for  
17 Quarter Horses, Thoroughbreds, Paints, and Arabians.  
18 This is the type of operation that we think is good for  
19 the State and good for the industry.

20           Wagering statistics are on the next  
21 slide. We think it's very important that you recognize  
22 some of the great things that are happening out there  
23 at Saddle Brook. In 2014 we experienced a four --  
24 excuse me, a 16.5 increase over 2013. That's  
25 tremendous. When you start looking at the other tracks

1 around the state and you start looking at where those  
2 numbers are, what those percentage increases are,  
3 they're relatively small compared to what Saddle Brook  
4 has been able to do.

5           That has everything to do with the  
6 operation that's out there, the Alexander brothers  
7 putting together an operation that has financial  
8 viability, that they have put together a plan that  
9 shows that they are promoting and recognizing support  
10 in Amarillo for horse racing. The market is strong out  
11 there and we believe we can continue to increase that  
12 market; and in doing that, we will be able to take this  
13 on a trajectory that's going to lead to live racing out  
14 there in Amarillo.

15           The next slide shows you the Saddle Brook  
16 facilities. Those of you who are familiar with the  
17 Cadillac Ranch know that this will be west of the  
18 Cadillac Ranch. We think this will be another tourist  
19 attraction in Amarillo. We think it's a great location  
20 and will be a positive result for all of us out in that  
21 area.

22           I provided you with a copy of a site  
23 plan. And I know that there was questions early on  
24 about the site itself. And just to make sure that  
25 we've alleviated any concerns about that particular

1 site, the entire 286 acres of that tract are owned by  
2 president Drew Alexander. We're only going to use a  
3 hundred acres of that. So the additional 186 acres  
4 Mr. Alexander is looking at to ensure that the  
5 development in that area is going to be development  
6 that's compatible with the introduction of a racetrack  
7 in that area.

8 We have provided you with a site plan  
9 that outlines where the stable areas are, the  
10 racetrack, the paddock area, the clubhouse. It's all  
11 present there. We're working with experts in the  
12 industry to ensure that what we put out there is going  
13 to be a quality product. We want to make sure that  
14 everyone is comfortable with the fact that that  
15 racetrack is going to be a great racetrack and a great  
16 benefit to the City of Amarillo.

17 Project details are on the next slide.  
18 It's going to be a seven-furlong track, a dirt surface,  
19 and we're also working with industry leaders on the  
20 development of that track.

21 The next slide goes into the site plan or  
22 additional information on the site plan. As you know,  
23 that's part of the process in terms of you looking at  
24 the approval of this particular license is making sure  
25 that you understand what our business plan is and what

1 our site plan is, what our design is going to be.  
2 That's why we've included this information for you.

3           A very important slide, the next one,  
4 racetrack project costs. These are conservative  
5 projections. We believe that we have consistently held  
6 to the fact it's going to take a firm budget of 7.5  
7 million dollars to develop this track in that area.  
8 It's important that we focus on that number. It's  
9 important that it's a focus for us because that's what  
10 it's going to take in terms of us making sure that  
11 we're generating the revenue, that we can obtain the  
12 financing, that we can build the track.

13           We want to make sure that we're confident  
14 on those numbers, which we are, and confident that we  
15 can then go forward with a plan in which we can reach  
16 those numbers. We think that continuing simulcasting  
17 out in Amarillo makes this a very, very financially  
18 viable project.

19           The next slide talks about the timeline.  
20 Now, the timeline is important. And we think you need  
21 to look at that timeline a little bit because what you  
22 see is it's important that we do some things now. It's  
23 very important, with this 16.5 percent increase that  
24 we're seeing at the simulcast facility, that we  
25 continue that. And we continue that with the approval

1 of simulcasting at the meeting today.

2 We then have one year to secure our  
3 financing. And we believe that we'll be back in  
4 October of 2015 with a financial plan that you're going  
5 to agree to, that you're going to be very, very  
6 comfortable with, because we've done what we've said we  
7 were going to do. We'll be back in November of 2015  
8 with a set of plans for the Commission to review that  
9 will look very, very similar to what you have in front  
10 of you. We think that those will obtain approval as  
11 well.

12 The key is we've got benchmarks. We've  
13 got milestones. We've looked at those. We've examined  
14 those very, very in depth to ensure that we can meet  
15 them. And we feel very, very comfortable that we can.

16 But the most important thing is with the  
17 passage of this rule, there is a provision that says  
18 one year out, one year out from now, you get a second  
19 look. You get to see whether or not Saddle Brook has  
20 been able to do exactly what it says it's going to do.  
21 And we think that's important. We think it's important  
22 because we want to ensure that you're comfortable with  
23 what you're voting on, that you're comfortable with the  
24 track record and our ability to meet the milestones  
25 that we've set out there for you.

1           The next slide talks a little bit about  
2 one of the questions that came up the last time that I  
3 was up here. And that was are we able to financially  
4 just move our simulcast facility to our current  
5 location. It just makes sense, doesn't it? That's a  
6 real simple request.

7           Well, I wish it was that simple. It's  
8 not that simple because when you look at the cost, it's  
9 going to cost over four million dollars to do that.  
10 And that's just not a financially viable option for us  
11 right now. We think that keeping the simulcast  
12 facility exactly where it's at is the way to do it,  
13 allow us to follow through this business plan, and  
14 we'll get to the great result that we think we can get  
15 to.

16           The next slide talks a little bit about  
17 temporary licenses. I know there were some questions  
18 about whether or not other agencies look at temporary  
19 licenses and the issuance of temporary licenses when  
20 there's not a specific provision in the statute that  
21 allows for a renewal. And so what I've done is  
22 outlined a few places for you in which the agencies  
23 have looked at legislative authority, looked at renewal  
24 provisions, and actually put in place renewal  
25 provisions that are allowed because the agency has been

1 given the authorization to make a rule that determines  
2 whether or not renewal is appropriate.

3           We believe in this instance that that's  
4 exactly the case. The agencies have expanded renewal  
5 provisions even when the statute may show some slight  
6 limitation. In this particular instance, we think  
7 there is a slight limitation; but you've got the  
8 ability, through the rule that's been outlined, to  
9 extend this particular license.

10           The next slide talks about the issuance  
11 of this into the Texas Register. That came out in  
12 June. We thank the Commission for doing that.

13           And I provided to you some information we  
14 think is very important on the next slide. And that is  
15 that Mr. Trout has looked at this issue. He's looked  
16 at this proposed rule and says that he sees no  
17 foreseeable fiscal impact in adopting this rule. It's  
18 not going to cost the state anything to do it. In  
19 fact, it's going to be a positive for the state.

20           And Mr. Trout went on and said, you know,  
21 this rule will have a positive impact on the state's  
22 agricultural, horse breeding, and horse training. You  
23 know, just the opposite is true as well. Failure to  
24 adopt this rule will have a negative impact on the  
25 state's agricultural, horse breeding, and horse

1 training industry.

2 We believe that. We think the numbers  
3 verify that. And it's not difficult to understand that  
4 if we're not able to have this rule passed that the  
5 handle in the state goes down, the ability to assist  
6 the horsemen goes down as well. It's not in the best  
7 interest of the state not to pass this rule.

8 The next slide talks a little bit about  
9 the other certifications that we've made to the  
10 public. We've published this in the Texas Register.  
11 And in publication, we have to go through a process.  
12 We have to go through a process where counsel looks at  
13 the rule and says whether or not we have the legal  
14 authority to do this. And that's exactly what the  
15 Commission has indicated to the public.

16 The agency has certified that legal  
17 counsel has reviewed the proposed rule and found it to  
18 be within the State's legal authority to adopt it. We  
19 believe that is a positive, positive thing. And what  
20 it is, what it turns into, Commissioners, it turns into  
21 a policy issue. It's not a legal issue. It's a policy  
22 issue, whether or not this is a rule that you are  
23 comfortable in adopting.

24 At the Commission meetings that we've had  
25 in the past, both the meeting in August of 2012 --

1 excuse me, the August 2012 meeting as well as the June  
2 2014 meeting, you see statements that were made. There  
3 was questions by the chairman as to whether or not we  
4 had the proper statutory authority, whether we had the  
5 proper ability to pass this rule. Mr. Fenner was very  
6 consistent in his statements. He said that you could  
7 look at this a couple of different ways, but it's a  
8 policy question. And it's a policy question that we  
9 believe it is in the best interest of the State to pass  
10 the rule.

11           Commissioners, there was another question  
12 that came out earlier when I was up here about seeking  
13 an Attorney General opinion. As you know, Saddle Brook  
14 is not authorized to seek an AG opinion. That's  
15 something the Commission can ask for. It's something  
16 that the comptroller's office can ask for. A committee  
17 of the Legislature can ask for that. But we believe  
18 there's no need for an Attorney General opinion on this  
19 proposed rule because we're very comfortable with the  
20 authority that exists for this Commission to issue the  
21 rule.

22           I provided you with some short statutory  
23 snippets to kind of give you a little background  
24 information on why you have that authority. I would  
25 just ask that you quickly read through that.

1           The most important thing that you've  
2 heard is the comments, the comments that have been  
3 before you as well as the comments that are in the  
4 record. And what you see things are -- what you see  
5 things are like the City of Amarillo saying "We're  
6 comfortable with what you're doing because you've made  
7 changes that we have asked you to make."

8           That's exactly what Mr. Alexander is  
9 comfortable with doing. And that is working with the  
10 Commission, working with the public, working with the  
11 City to ensure that what we put in place out there in  
12 Amarillo is in the best interest of both the City, the  
13 industry, as well as what's in the best interest of  
14 Saddle Brook.

15           And kind of the last slide -- the second  
16 to the last slide I put there before you is what do we  
17 lose if we don't do this. We think it's very, very,  
18 very important that you look at that slide because  
19 those numbers are staggering numbers. Those numbers  
20 are important numbers for us to understand.

21           We lose \$600,000 in horsemen's purse. We  
22 lose \$460,000 in licensing fees. We lose \$75,000 in  
23 tax revenue. We terminate a thriving business in  
24 Amarillo. And we eliminate, most importantly, the true  
25 viability of live horse racing in northwest Texas.

1                   You need to do nothing more than look  
2 back at that map that I provided to you. Northwest  
3 Texas has one opportunity. And that's Saddle Brook  
4 Park. We believe that the passage of that rule makes  
5 that possible, makes this a viable plan, and it's the  
6 right thing to do for Texas.

7                   I know Mr. Alexander would like to come  
8 up and provide you with his comments. I thank you for  
9 the time that you've given me to present this to you.  
10 This is the right thing to do. And I'm ready to answer  
11 any of your questions.

12                   CHAIRMAN SCHMIDT: Thanks, Mr. Newby, for  
13 your thorough presentation.

14                   Questions, comments?

15                   Thank you.

16                   MR. NEWBY: Thank you.

17                   CHAIRMAN SCHMIDT: Mr. Alexander?

18                   MR. ALEXANDER: That's a hard act to  
19 follow.

20                   Mr. Chairman, Commissioners, my name is  
21 Lynn Alexander and I am the chief executive officer for  
22 Yellow Rose Entertainment who is the owner of Saddle  
23 Brook Park doing business currently as Saddle Brook  
24 Jockey Club.

25                   As you know, a little over two years ago

1 my brother Drew was stricken -- he suffered a blood  
2 clot that almost cost him his life. But it did, in  
3 fact, result in the taking of one of his legs. And so  
4 since that time he's been learning how to live his life  
5 a little bit differently and I've been trying to help  
6 him with some of his business issues and thus my  
7 involvement with Saddle Brook. He's recovering well  
8 and getting better and hoping that his dreams of  
9 someday having live racing in West Texas continue to  
10 stay alive.

11           The rule for preopening temporary  
12 simulcasting states that once a two-year license  
13 expires, it cannot be renewed. We look at that as the  
14 glass being half full and not half empty. We feel like  
15 that if we extend the license before it expires, then  
16 that's what we're asking you to do.

17           Some would have you to believe that that  
18 was not the legislative intent when the rule was  
19 written. I don't -- how does anyone know what the  
20 legislative intent was? How does anybody know what the  
21 legislative intent ever is, for that matter?  
22 Especially 25 years ago.

23           Doesn't it make sense that if they didn't  
24 want to give you any leeway, they would have said this  
25 is a two-year maximum rule for a temporary license that

1 cannot be extended for any reason whatsoever and it  
2 cannot be renewed? But they didn't. I believe that it  
3 was written that way purposefully to give you guys, the  
4 Racing Commission, the flexibility that it needs to  
5 fairly regulate each situation independently and  
6 separately.

7 I can tell you what the intent of the  
8 past legislation was and I can tell you that for a  
9 fact. Kel Seliger, Senator Kel Seliger from Amarillo,  
10 introduced a bill in the Senate to extend that from two  
11 years to six years. It passed out of the Senate  
12 subcommittee overwhelmingly. It went to the Senate  
13 floor and passed. It then went to the House and was  
14 passed overwhelmingly out of the House committee. And  
15 it was sitting on the podium of the Speaker of the  
16 House for a vote the night that the Senate -- or that  
17 the House adjourned. And the bill, along with 50-plus  
18 other bills, died because of a House rule, which is  
19 another rule that probably needs to be addressed and  
20 looked at.

21 So I -- in closing, I just ask you to  
22 vote for your heart. You gave us a seven-to-one vote  
23 in favor of getting us this far. I ask you not to  
24 change your minds now. It's very expensive to wind  
25 down a business. I don't think we need a racetrack or

1 a racing entity of any kind to close its doors in the  
2 State of Texas right now. I don't think that's good.

3 I thank you for your time. I appreciate  
4 your vote. Thank you very much. Questions for me?

5 CHAIRMAN SCHMIDT: Any questions of  
6 Lynn?

7 Thanks, Lynn. Thank you very much.

8 MR. ALEXANDER: Thank you, Chairman.

9 CHAIRMAN SCHMIDT: There's no further  
10 public comment then?

11 Okay. Any discussion by the Commission?

12 COMMISSIONER ABER: Yeah, I'd like to.  
13 You know, we're addressed all the time by these tracks  
14 that aren't doing anything and we've got one here  
15 that's produced a lot of money and really doing a good  
16 job. I think we sure need to stick with it. And I  
17 think you can interpret that rule like it is, that they  
18 can renew it before it expires.

19 I think they got hit -- you know, you  
20 said last time their -- the Sunset Commission hit them  
21 with a 230,000-dollar bill versus a -- it went up from  
22 a hundred thousand. How can you operate a business  
23 when somebody increases your fees like that? You know,  
24 so I think they need every chance we can do to do  
25 this.

1 MS. O'CONNELL: The Comptroller wishes  
2 Saddle Brook Park all the success in the world. But  
3 the law at the time that you applied for your license  
4 was that -- and the law still is that the temporary  
5 location can only last for two years.

6 The Commission doesn't have its own  
7 authority. It has the authority that comes from the  
8 Legislature and the authority that comes through the  
9 Texas Racing Act. And because that section of the  
10 Racing Act is really specific that the temporary  
11 license location should only last for two years -- and  
12 the Comptroller's position is that it's pretty clear  
13 what the legislative intent was because they say it can  
14 only last for two years and you can't extend it and  
15 don't even think about trying to get a new one after  
16 two years. So we think that's pretty clear that they  
17 only intended it to last two years.

18 And although your counsel has identified  
19 a mechanism by which he thinks that the term could be  
20 extended, which the mechanism would be extending it  
21 before the expiration, you know, we remain concerned  
22 that that does -- you know, that the end product of  
23 that is to have the temporary license be extended more  
24 than two years, which undercuts the whole purpose of  
25 that part of the Racing Act.

1           So we continue to believe that this --  
2 you know, to act and do what you all are asking us to  
3 do would be to overstep our authority that we have from  
4 the Racing Act.

5           I think, if I'm reading your original  
6 application correctly, your original plan was to have  
7 the temporary license -- the temporary location and  
8 then to go ahead and start building your live racing  
9 track pretty quickly in 2014. And, you know, you don't  
10 have to do that. You can -- you can go ahead and just  
11 start to build a simulcasting facility at your license  
12 location. So that would allow you to not make that  
13 full investment and just to make a partial investment  
14 but still be able to retain your racing license.

15           And so I guess what I'm looking at in  
16 your PowerPoint is that you're estimating that it would  
17 cost 2.5 million dollars to do that. So I don't know  
18 if you can revise those numbers or scale it down a  
19 little bit. But I mean, if you have -- if you have  
20 wagering that's on the upswing and you're contemplating  
21 building your track right next to a well-known tourist  
22 attraction, it seems like this might be the opportune  
23 time to go ahead and make that switch to your license  
24 location.

25           That is -- that may not have been your

1 original plan. It may need to be kind of a scaled-back  
2 plan of the original plan. But that is what the law  
3 does still allow you to do. And so we would really  
4 encourage you to take a second look at that or, you  
5 know, look at the -- again, to look at the scope of  
6 that. Maybe you don't need to build a giant parking  
7 lot right now that would work for all of your future  
8 live racing needs. Maybe a smaller parking lot that  
9 would just serve the simulcasting facility right now  
10 would be fine.

11 But it seems like that had to have been  
12 contemplated at the time even though you had more  
13 ambitious goals. You know, there still is a reasonable  
14 option for you to continue to build on your success in  
15 a way that we think complies with the law and doesn't  
16 put us at risk of overstepping our legal authority. We  
17 do think it is a legal question, not a policy  
18 question.

19 CHAIRMAN SCHMIDT: Thank you,  
20 Commissioner.

21 COMMISSIONER MARTIN: If we voted on this  
22 today, Mark, and if it was voted down, what are their  
23 options?

24 MR. FENNER: The temporary license held  
25 by Saddle Brook Park -- let me say that they began

1 simulcasting on December 13th of 2012; so counting from  
2 that period of time, they could continue to simulcast  
3 through December 12th of 2014. Now, that's just to  
4 conduct simulcasting at their temporary location.

5           They are -- as Commissioner O'Connell  
6 pointed out, they could continue simulcasting out at  
7 their regularly designated location. They do need to  
8 get some new race dates because they have race dates it  
9 does not appear they're going to be able to run this  
10 year. So at the following meeting in December, they  
11 would have to come back and get new race dates; but  
12 then, yes, they could continue to simulcast at their  
13 regularly designated location while they prepare to run  
14 those race dates.

15           COMMISSIONER MARTIN: Thank you.

16           CHAIRMAN SCHMIDT: Any others?

17           COMMISSIONER WEINBERG: I have a  
18 question. Mark, you know, obviously I think a lot of  
19 us feel like we're between a rock and a hard place. We  
20 want this racetrack to succeed. And I appreciate  
21 General O'Connell's -- Commissioner O'Connell's remarks  
22 as an option. And I would just -- I do have your  
23 communication with us. You know, it seems there was a  
24 little bit of a -- you know, from earlier possibly to  
25 this happening and now this really can't happen.

1                   Would you just kind of give us nutshell  
2 comments of what you sent to us and your thoughts on  
3 this?

4                   MR. FENNER: I'm very much in agreement  
5 with the sentiments expressed by Commissioner O'Connell  
6 in that the section of the act that's in question here,  
7 Section 6.15, is very tightly contained. It's only  
8 three sentences. And it describes the term of the  
9 temporary license as being for two years or until the  
10 permanent facility is constructed, whichever is first.  
11 So two years is the maximum provided explicitly for in  
12 the temporary location provision.

13                   The area -- the last sentence in which  
14 they make the argument that after a license expires, it  
15 can't be renewed opens the possibility of before it  
16 expires, you can, seems to me to be reaching rather  
17 far, reaching rather hard. And if you're looking for  
18 other examples of how licenses are treated in the act,  
19 there's not this ambiguity.

20                   When you get to racing licenses  
21 themselves, racetrack licenses, there's a renewal  
22 provision, but it sets out the criteria and the factors  
23 that the Commission considers in determining whether to  
24 renew the license, similar to what they pointed out in  
25 their examples.

1           We also have temporary licenses in the  
2 occupational license field. But in that case, it sets  
3 out a very explicit limitation. It's only good for  
4 that period of time. And the purpose of the temporary  
5 license is so that they can meet the qualifications to  
6 obtain their regular license.

7           Here, this is a similar type of  
8 function. You can have a temporary license, but the  
9 purpose of the license is to build your permanent  
10 facility.

11           And, you know, I think that if you look  
12 at 6.15, it's limited this way because they did not  
13 want to have facilities conducting wagering away from  
14 their track for extended periods of time. It was a  
15 very limited, focused section of the act.

16           COMMISSIONER WEINBERG: If, in fact, this  
17 is voted down, can they start over in the future? What  
18 are their options?

19           MR. FENNER: Well, they will not be able  
20 to get another temporary license, but they are free to  
21 begin racing, whether simulcasting or live racing, at  
22 their regular location.

23           COMMISSIONER ABER: You know, in the June  
24 meeting Dr. Schmidt said "So the critical perspective  
25 from your or our counsel's perspective is simply the

1 fact that if we act before it expires, it may be  
2 permissible." You said "Yes, you can interpret it that  
3 way."

4 MR. FENNER: I am not going to say that I  
5 can prohibit you from interpreting the act in that  
6 way. It's not my job to forbid you to take one action  
7 or the other.

8 CHAIRMAN SCHMIDT: Any other questions?

9 MR. ALEXANDER: Chairman Schmidt, may I  
10 address the Comptroller's question?

11 CHAIRMAN SCHMIDT: Sure.

12 MR. ALEXANDER: It sounds like a simple  
13 solution to just go out and spend two and a half  
14 million dollars. But if I can talk to you as a  
15 businessperson, it's not that easy. We have a business  
16 that because of \$230,000 a year in licensing fees is  
17 losing 250, 275 thousand dollars.

18 We were just mandated that we provide to  
19 the Commission an audited financial statement and I've  
20 just turned that over in the last few weeks. Mr. Trout  
21 was kind enough to give us a little bit of time because  
22 it took some time to even find somebody to do that for  
23 us.

24 But our audited financial statements show  
25 that we lost a substantial amount of money last year;

1 and had it not been for the horse people to step up and  
2 to help us some with some of our licensing fees, it  
3 would have been substantially worse.

4           And I know you guys are in business. I  
5 mean, I know each and every one of you know what it's  
6 like to try to make payroll and to provide businesses  
7 for people to work and do what we do. And this is just  
8 one of the businesses that I'm involved in.

9           You can't go to the bank and show them  
10 this financial statement and borrow money to do it.  
11 You can't go out there and take 200 and -- or  
12 \$2,500,000 out of your pocket and do it. It would be  
13 economic suicide.

14           So there is viability for horse  
15 racetracks in the State of Texas now. There was not  
16 viability for racetracks in March. That's why we said  
17 let's try to get an extension back then. And you guys  
18 voted for us and gave us your go-ahead, "Yeah, go ahead  
19 with it. We agree with it," because of the comments  
20 that were made, and I think everybody agreed with it,  
21 that we thought it was possible to get this extension.

22           But there was no way that we could borrow  
23 money to go -- to get money to go stick in a hole that  
24 was already being dug to the tune it was being, with  
25 nothing else to go with it. Why would it work out?

1 Why would a simulcast facility work six miles out of  
2 town when it won't work right in the middle of town?  
3 It won't. And any bank is going to look at that and  
4 any legitimate businessman is going to look at it and  
5 say "I don't think I'm going to pour another two and a  
6 half million dollars in this hole."

7 But we're getting better where we are.  
8 We're not losing as much money. And we're just hanging  
9 on for what the future is. And that's why we're asking  
10 you to vote for this rule change and give us an  
11 opportunity to be there when good things happen to  
12 racetracks in Texas.

13 Thank you for letting me address your  
14 concern.

15 COMMISSIONER ABER: You know, my comment  
16 is still we're supporting these active-other tracks who  
17 don't even have any land and we've got somebody here  
18 that's doing a good job and producing money for the  
19 horsemen. I think we should pass this just from the  
20 fact that it hasn't expired.

21 CHAIRMAN SCHMIDT: I think everybody has  
22 had their say.

23 Do you want to make a motion?

24 COMMISSIONER ABER: Yeah, I'll make a  
25 motion we pass the proposal, 309.13.

1                   CHAIRMAN SCHMIDT: So there's a motion on  
2 the floor, 309.13. In favor?

3                   COMMISSIONER ABER: Aye.

4                   CHAIRMAN SCHMIDT: I'd say --

5                   MR. FENNER: Is that with the changes?  
6 Is that with the changes requested?

7                   COMMISSIONER ABER: Did somebody second?

8                   COMMISSIONER MARTIN: Do we not have to  
9 individually vote on this or no?

10                  CHAIRMAN SCHMIDT: We can vote; or if it  
11 doesn't have a second, then it doesn't vote.

12                  We have a motion on the floor to adopt  
13 Rule 309.13 with the requested amendments by Dr. Aber.

14                  Is there a second?

15                  Okay. The motion then dies if there's a  
16 lack of a second.

17                  Going on to the next item, request by  
18 Saddle Brook Park for an extension of a temporary  
19 license.

20                  Mark, do you want to lay this out?

21                  MR. FENNER: Well, considering that  
22 you -- that there is no rule and that the act has no  
23 provisions for extension of a temporary license,  
24 temporary -- Saddle Brook Park had made a request to  
25 extend its temporary license in contemplation that the

1 rule would be passed. I'm not sure there's any point  
2 in going forward.

3 I'd ask Mr. Newby or Mr. Alexander  
4 whether they would --

5 MR. NEWBY: That's correct,  
6 Mr. Chairman. With the lack of a second, that means  
7 that the next piece to the puzzle would not be  
8 appropriate to vote on at this time.

9 CHAIRMAN SCHMIDT: Okay. Thank you. So  
10 that will be withdrawn.

11 The next item is a request by Gulf  
12 Greyhound Park for approval of a change in ownership of  
13 12 percent.

14 Mark, can you lay this out for us?

15 MR. FENNER: Yes, sir.

16 One of the owners of Gulf Greyhound Park  
17 was Sam Phelps, who is a -- he owned 25 percent of the  
18 Green Group, which itself owns Texas Pari-Mutuel  
19 Management, a 48 percent owner of Gulf Greyhound Park.  
20 So by his 25 percent of the 48 percent, he owned 12  
21 percent, in essence, of Gulf Greyhound Park.

22 Mr. Phelps has passed away and Gulf  
23 Greyhound Park has requested approval of the changes to  
24 his heirs. This would result in 9.24 percent of Gulf  
25 Greyhound Park being held by Scott Phelps, his son, in

1 his individual capacity, and the remaining 2.76 percent  
2 would be held by the Sam and Mary Phelps Trust, of  
3 which Scott Phelps is the trustee.

4           The Department of Public Safety has run  
5 background checks of Ms. Phelps and Scott Phelps and  
6 reported that there's no disqualifying information, so  
7 staff is recommending approval of the change in  
8 ownership.

9           CHAIRMAN SCHMIDT: Okay. Mr. Moltz, are  
10 you here to -- just available if needed?

11           MR. MOLTZ: Mr. Chairman, if there are  
12 questions, I'm available to answer them. And we would  
13 request that it be approved.

14           CHAIRMAN SCHMIDT: This looks like  
15 housekeeping. Great. Thank you.

16           Any discussion, concerns, or questions?

17           I'll entertain a motion to approve the  
18 request by Gulf Greyhound for a change in ownership of  
19 12 percent as stated.

20           COMMISSIONER HICKS: I'll make the  
21 motion.

22           CHAIRMAN SCHMIDT: The motion is made by  
23 Commissioner Hicks.

24           COMMISSIONER STEEN: Second.

25           CHAIRMAN SCHMIDT: Second by Commissioner

1 Steen.

2 Is there any further comment?

3 All those in favor signify by saying  
4 aye.

5 COMMISSIONERS: Aye.

6 CHAIRMAN SCHMIDT: Okay. That's  
7 approved.

8 Barring unforeseen changes from our  
9 discussion earlier at the beginning of the meeting,  
10 we're scheduled for the 16th of December. It's less  
11 firm than it was an hour and a half ago, but it's still  
12 firm.

13 I'll certainly entertain a motion to  
14 adjourn. Is there a motion?

15 COMMISSIONER MARTIN: Motion.

16 CHAIRMAN SCHMIDT: Second?

17 COMMISSIONER HICKS: Second.

18 CHAIRMAN SCHMIDT: Ms. Hicks.

19 All those in favor signify by saying  
20 aye.

21 COMMISSIONERS: Aye.

22 CHAIRMAN SCHMIDT: We're now adjourned at  
23 12:02. Thank you.

24 (Proceedings concluded at 12:02 p.m.)

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 27th day of October, 2014.

16  
17  
18  
19  
20 

21 SHERRI SANTMAN FISHER, Texas CSR 2336  
22 Expiration Date: 12-31-15  
23 Kennedy Reporting Service, Inc.  
24 Firm Registration No. 276  
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