



APPEARANCES

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

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1 VICE-CHAIRMAN EDERER: Good morning,  
2 everybody. It's 10:31. Our chairman is on the Hill  
3 today, so to speak, and so we will commence the  
4 meeting. It is 10:31.

5 Mary, would you please call the roll?

6 MS. WELCH: Yes.

7 Chairman Robert Schmidt? Commissioner  
8 Ron Ederer?

9 VICE-CHAIRMAN EDERER: Here.

10 MS. WELCH: 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: Commissioner 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 MS. WELCH: We do have a quorum.

25 VICE-CHAIRMAN EDERER: Do we have a

1 quorum?

2 MS. WELCH: We do.

3 VICE-CHAIRMAN EDERER: Thank you.

4 Let's proceed. Public comment. Do we  
5 have any public comment, Ms. Bijansky?

6 MS. BIJANSKY: No, sir.

7 VICE-CHAIRMAN EDERER: Okay. Let's  
8 commence with the general business. Budget and finance  
9 update. Lane Goetsch?

10 MS. GOETSCH: Good morning,  
11 Commissioners. My name is Lane Goetsch, chief  
12 financial officer for the Texas Racing Commission. I'm  
13 here to give the budget and finance update.

14 On pages seven and eight of your agenda  
15 packet you will find the agency's fiscal year 2015  
16 operating budget reflecting revenues and collections --  
17 revenue collections and expenditures as of December  
18 31st, 2014. As of that date, the agency had collected  
19 4.19 million or 45 percent of revenues and expended 2.2  
20 million or 28 percent of budgeted expenditures. At  
21 this time the Racing Commission is in good operating  
22 condition.

23 If you have any questions, I will be  
24 happy to answer them.

25 VICE-CHAIRMAN EDERER: Are there any

1 questions?

2 But we're in good standing as far as  
3 financially goes, right?

4 MS. GOETSCH: So far. Financially, yes.

5 VICE-CHAIRMAN EDERER: Okay. Thank you.

6 MS. GOETSCH: Thank you.

7 VICE-CHAIRMAN EDERER: Glad to hear  
8 that.

9 Report on wagering statistics. Lila  
10 Smith?

11 MS. SMITH: Good morning, Commissioners.  
12 I'm Lila Smith. I'm the director of pari-mutuel.

13 On pages nine through 11 of your agenda  
14 packet is the wagering statistical report for the  
15 periods of January 1st through February 2nd for both  
16 2014 and 2015. The report reflects that the total  
17 wagering activity for 2015 has decreased at the  
18 greyhound tracks by .88 percent and has increased --  
19 and has decreased at the horse tracks by 7.1 -- 7.01  
20 percent. Total wagers placed in Texas have decreased  
21 by 6.79 percent in 2015.

22 Do you have any questions?

23 VICE-CHAIRMAN EDERER: That's the  
24 decrease in '15? That's this year.

25 MS. SMITH: Yes.

1                   VICE-CHAIRMAN EDERER: So for the last  
2 two months -- last month.

3                   MS. SMITH: Last month. There was a  
4 couple of cancellations. Performances were canceled  
5 and races were canceled for one reason or another. So  
6 it should be coming up.

7                   VICE-CHAIRMAN EDERER: Okay. All right.  
8 Thank you.

9                   MS. SMITH: Thank you.

10                  VICE-CHAIRMAN EDERER: Inspection and  
11 enforcement report. Jim Blodgett?

12                  MR. BLODGETT: Yes, sir. Good morning,  
13 Commissioners.

14                  MS. WELCH: Excuse me. Just a second,  
15 Jim. Could I ask the folks that go up to the podium if  
16 you'll just speak into the mike? Thank you.

17                  MR. BLODGETT: Good morning,  
18 Commissioners. The enforcement and inspection reports  
19 are found on page 12 and 13 of your agenda packet.

20                  Commissioners, there are two racetracks  
21 currently conducting live meets: Sam Houston Race Park  
22 and Gulf Greyhound Park. Simulcast operations continue  
23 at Lone Star Park, Retama Park, the Race Barn in  
24 Fredericksburg, Valley Greyhound Park, and Gulf Coast  
25 Racing in Corpus Christi. Saddle Brook Jockey Club has

1 ceased simulcast operations in Amarillo effective  
2 December the 12th, 2014.

3           The Sam Houston Race Park Thoroughbred  
4 meet began on January the 16th, 2015. As of the filing  
5 of this report, we have had no reports of any Class 1  
6 or 2 drug positives or 3 or 4 drug positives or any  
7 overages of medications at this time.

8           The ruling activities for that particular  
9 track have numbered five and they include minor riding  
10 infractions, reciprocity suspensions for financial  
11 responsibility and human drug test, and one summary  
12 suspension of a jockey. In addition, several  
13 enforcement cases are currently pending stewards'  
14 action as a result of the Texas DPS and the Texas  
15 Racing Commission gate inspection that was recently  
16 conducted.

17           The outstanding inspection issue at Sam  
18 Houston Race Park is an ATM providing cash from a  
19 credit card request, the same issue we've dealt with  
20 for the last couple of inspection periods on other  
21 locations.

22           Gulf Greyhound Park continues operations  
23 with no notable enforcement or inspection issues. And  
24 I would make a correction from the material that you  
25 have in front of you. Listed in there is an

1 outstanding inspection item involving an ATM issue.  
2 That is not accurate. That inspection has not taken  
3 place and will not take place for about another two  
4 weeks.

5 So with that, that concludes my  
6 inspection and enforcement report and I'd answer any  
7 questions that you may have.

8 VICE-CHAIRMAN EDERER: Are there any  
9 questions?

10 Thank you.

11 Proceeding on racetracks. We will  
12 consider a request by PM Texas, LLC, for approval of  
13 change in management committee.

14 Mark Fenner, please?

15 MR. FENNER: Yes, sir.

16 Commissioners, PM Texas, LLC, is the  
17 license holder for Sam Houston Race Park, Valley Race  
18 Park, and Laredo Race Park. PM Texas is a joint  
19 partnership or venture between Penn National Gaming and  
20 MAXXAM through their wholly owned subsidiaries; and one  
21 of those subsidiaries, Penn Gaming Ventures, holds the  
22 two members representing Penn National on PM Texas'  
23 four-member management committee.

24 Penn National wants to substitute one of  
25 those management committee members. They want to

1 substitute Mr. William J. Fair for the current member,  
2 Timothy J. Wilmott. The Department of Public Safety  
3 and our own fingerprint background checks have been run  
4 on Mr. Wilmott. We have found no disqualifying  
5 information on him. And therefore, staff is  
6 recommending approval of this change in the management  
7 committee.

8 Ms. McCormick representing Penn National  
9 Gaming is available if you have any questions of her.

10 VICE-CHAIRMAN EDERER: Are there any  
11 questions for Mr. Fenner? Any questions for  
12 Ms. McCormick?

13 Ms. McCormick, do you have any comments,  
14 please? I'm sorry.

15 MS. MCCORMICK: No, I don't want to take  
16 any time if it's unnecessary. I just wanted to note  
17 that Mr. Fair -- this change is being proposed because  
18 Mr. Wilmott has taken a different position at Penn and  
19 so Penn proposes to replace him with Mr. Fair who's got  
20 decades of experience developing large-scale  
21 entertainment enterprises in both the United States and  
22 abroad.

23 And I just want to note that this change  
24 is not being proposed to change the day-to-day  
25 operations of these tracks and just as a complement to

1 the already capable management of the tracks.

2 So Penn National would just request that  
3 you approve this application.

4 VICE-CHAIRMAN EDERER: Are there any  
5 questions for Ms. McCormick?

6 Thank you.

7 We will need a motion at this time to  
8 approve the request by PM Texas to substitute William  
9 J. Fair for Timothy J. Wilmott on the management  
10 committee.

11 Is there a motion?

12 COMMISSIONER HICKS: I'll make the  
13 motion.

14 VICE-CHAIRMAN EDERER: A motion made by  
15 Ms. Hicks.

16 COMMISSIONER WEINBERG: I'll second.

17 VICE-CHAIRMAN EDERER: And seconded by  
18 Ms. Weinberg.

19 All those in favor?

20 COMMISSIONERS: Aye.

21 VICE-CHAIRMAN EDERER: Opposed?

22 The next order of business, allocation of  
23 funds for the Texas-bred incentive program as provided  
24 under Commission Rule 321.505(b).

25 Mr. Fenner?

1 MR. FENNER: Yes, sir, Mr. Chairman.

2 Commission Rule 321.505(b) describes the  
3 allocation of accredited Texas-bred funds among the  
4 various breeds and the rule sets out a number of  
5 criteria to use in deciding how the distribution will  
6 be made. But the rule also provides that in lieu of  
7 that process, the breeds can come to an agreement as to  
8 how the amounts should be allocated among the breeds.  
9 And the breeds have done so in this case.

10 You'll see on your materials on pages 16  
11 through 20 there are signed copies. Each of the breeds  
12 are represented. So that having been met -- and this,  
13 I understand, is exactly the same allocation that's  
14 been done in previous years, so staff recommends  
15 approval of the agreement among the breed registries as  
16 set out in the materials.

17 VICE-CHAIRMAN EDERER: All the breeds are  
18 represented here today?

19 MR. FENNER: I believe so.

20 VICE-CHAIRMAN EDERER: If not, they've  
21 certainly indicated --

22 MR. FENNER: They've signed.

23 VICE-CHAIRMAN EDERER: Are there any  
24 questions of Mr. Fenner or of any representative of the  
25 breeds?

1                   We need a motion to approve the  
2 allocation of funds for the Texas-bred incentive  
3 program as set out in the industry agreement on page 16  
4 and 20 of the packet.

5                   Do I have a motion?

6                   COMMISSIONER MARTIN: I make a motion to  
7 approve.

8                   VICE-CHAIRMAN EDERER: A motion has been  
9 made by Mr. Martin. Excuse me. Dr. Martin.

10                  Do I have a second?

11                  COMMISSIONER HICKS: I'll second.

12                  VICE-CHAIRMAN EDERER: A second by Gloria  
13 Hicks.

14                  All in favor?

15                  COMMISSIONERS: Aye.

16                  VICE-CHAIRMAN EDERER: Any opposed?

17                  All right. I would like to make a  
18 comment. I appreciate all the hard work that you guys  
19 have done as far as coming to this agreement. I know  
20 it's difficult. It's difficult every year. We  
21 appreciate you taking the time to get this worked out.  
22 And the Commission does approve it. Thank you.

23                  Review of the license designation of  
24 Saddle Brook as required under Commission Rule  
25 309.51(f).

1 Mr. Fenner?

2 MR. FENNER: Yes, sir.

3 The rules provide that if an active  
4 racetrack is granted live race dates and then fails to  
5 run those live race dates that the Commission shall  
6 review the designation of the license within a  
7 four-month period after the failure to run the live  
8 race dates and may choose to change the designation of  
9 the license.

10 Now, in this case, as well as the case at  
11 Valle de los Tesoros and Gulf Coast Racing, these are  
12 each active-other racetracks; and in each case, they  
13 have failed to run live race dates within the previous  
14 four calendar months.

15 In the case of Saddle Brook Park, they  
16 had two live race dates that were to be conducted on  
17 October 24th and 25th of 2014 and they did not do those  
18 dates. So at this period it's your option to look at  
19 the license and determine whether or not you want to  
20 change the designation. It's a permissive. I can tell  
21 you that if you look at the definitions, it does not  
22 meet the current -- or the definition of an  
23 active-other as it was set out for initial  
24 determinations, but it doesn't require you to make a  
25 change. So it's something for you to consider and make

1 a decision about.

2 I'm happy to answer any questions and I  
3 know that representatives of Saddle Brook Park and each  
4 of these racetracks are available to answer questions  
5 you have of them.

6 MS. LEON: I have a question. What's the  
7 difference between active-only and inactive and what's  
8 the consequences?

9 MR. FENNER: Yes, ma'am. There are two  
10 broad categories of active and then there's inactive.  
11 An active track is one that has conducted live racing  
12 within the previous calendar year. An active -- that's  
13 an active-operating. An active-other track is one that  
14 has live race dates in the future and also is either  
15 currently conducting preopening simulcasting or showing  
16 other good faith efforts that demonstrate that live  
17 racing or simulcasting is imminent. Now, if they don't  
18 meet this criteria of those two license definitions,  
19 then during the initial designation period they would  
20 have to be designated as inactive.

21 As a practical consequence, there's two  
22 issues really. First there is the annual fee issue,  
23 which is kind of technical. If you are active, you pay  
24 your annual fee in 12 increments. It's prorated across  
25 the year. If you are inactive, that racetrack pays its

1 full annual fee right up front September 1. So there's  
2 a financial issue for them.

3           Also, an active track undergoes an  
4 ownership and management review every five years,  
5 nothing in between. An inactive racetrack undergoes an  
6 annual review and renewal. So an active track doesn't  
7 have the risk of being nonrenewed because they're  
8 active and they only have an ownership and management  
9 review every five years, while if a track is inactive,  
10 you're reviewing their license every year and have the  
11 opportunity to either renew it or decide not to renew  
12 their license.

13           MS. LEON: And what I'm hearing from you  
14 in the recommendation -- not the recommendation, but  
15 the definition of inactive is more appropriate in terms  
16 of active-other. Active-other, they don't seem to be,  
17 any of these that are on the agenda today, being  
18 considered active-other.

19           MR. FENNER: Gulf Coast is the one that I  
20 would say can meet the criteria because they have a  
21 pending request for live race dates and they are  
22 currently conducting simulcasting. So if the  
23 Commission elects to grant them the live race dates and  
24 they're currently doing simulcasting, then they're  
25 clearly going to meet the definition.

1 MS. LEON: But the other one doesn't.

2 MR. FENNER: They don't meet the  
3 definition if it was done in the initial designation.

4 COMMISSIONER STEEN: What's the  
5 difference in the fee amount between the active-other  
6 and the inactive?

7 MR. FENNER: It's the same, \$230,000 for  
8 each of these racetracks whether they're active or  
9 inactive. It's just whether it's going to be prorated  
10 or in a lump sum.

11 If I may correct, the license for Gulf  
12 Coast Racing is higher because they're a greyhound  
13 track, not a Class 2 horse track.

14 MS. LEON: But the horse tracks are the  
15 ones that have not --

16 MR. FENNER: Saddle Brook and Valle de  
17 los Tesoros are the ones that are Class 2 horse tracks  
18 that --

19 MS. LEON: That don't have simulcasts and  
20 don't have live racing.

21 MR. FENNER: Yes, ma'am.

22 MS. LEON: Okay.

23 VICE-CHAIRMAN EDERER: First we're just  
24 taking up Saddle Brook at this point in time.

25 MR. FENNER: Yes, sir.

1 VICE-CHAIRMAN EDERER: Ms. O'Connell?

2 MS. O'CONNELL: So this process of  
3 designating active and inactive and then having this  
4 renewal process came out of the agency's sunset bill, I  
5 guess, two sessions ago. Is that right?

6 MR. FENNER: Yes, ma'am.

7 MS. O'CONNELL: And then -- so we were  
8 mandated to create that process by an amendment in the  
9 Racing Act. And then when is the agency up for sunset  
10 again?

11 MR. FENNER: We will be under sunset next  
12 legislative session and the Sunset Commission will  
13 begin their review during the summer of 2015. So very  
14 soon.

15 VICE-CHAIRMAN EDERER: That's this  
16 summer.

17 MS. O'CONNELL: Okay. And will they be  
18 looking at whether or not the Commission has used the  
19 process that --

20 MR. FENNER: I'm sure they will be  
21 evaluating that, yes, ma'am.

22 MS. O'CONNELL: So what happens if an --  
23 if an active-other track -- if a track that is  
24 designated active-other today remains active-other  
25 after today but is, in effect, inactive, then how --

1 does the Commission have any ability to do the annual  
2 review if they are, as a practical matter, inactive but  
3 they have the designation of active-other?

4 MR. FENNER: Well, the next scheduled  
5 review for Saddle Brook and for Valle de los Tesoros is  
6 for 2018. That's when the ownership and management  
7 review will be taking -- will take place because the  
8 last time we did an ownership and management review was  
9 2013. It's every five years.

10 MS. O'CONNELL: So you would lose that  
11 ability to work on the annual review process to bring a  
12 track up to a higher level of operating. If they stay  
13 the -- if a track does not -- is not doing simulcasting  
14 and does not have live race dates and is not  
15 progressing, then, as a practical matter, they are  
16 inactive; but if they technically have the designation  
17 of active-other, then the Commission cannot be  
18 reviewing them annually like they could if they were  
19 designated inactive formally.

20 MR. FENNER: That's correct.

21 MS. O'CONNELL: Is that right?

22 MR. FENNER: Yes, ma'am.

23 VICE-CHAIRMAN EDERER: I have a question,  
24 Mr. Fenner. It's my understanding, however, if that  
25 track -- if it is placed in inactive status, that track

1 can come back to us at any time and request a change in  
2 their status and request race dates at that time if, in  
3 fact, they can meet the criteria that would qualify  
4 them to go back to an active-other track. Is that  
5 correct?

6 MR. FENNER: Yes, sir. And the  
7 Commission followed a very similar process when it  
8 designated Saddle Brook Park as active. You may  
9 remember that Saddle Brook was originally an  
10 inactive -- designated as inactive. Then they came to  
11 you with a plan for how they were going to get live  
12 race dates, open a temporary simulcast facility, and  
13 begin simulcasting. And after granting the live race  
14 dates, they came back at the next meeting and got the  
15 approval for the temporary location and the Commission  
16 designated them as active. I think it was just two  
17 meetings.

18 VICE-CHAIRMAN EDERER: And as far as the  
19 annual fee is concerned, has Saddle Brook paid their  
20 annual fee?

21 MR. FENNER: Yes, sir.

22 VICE-CHAIRMAN EDERER: So that matter  
23 does not come up again until September.

24 MR. FENNER: Well, they are -- because  
25 they're active currently, they're paying on a monthly

1 basis currently. If you redesignate them as  
2 inactive --

3 VICE-CHAIRMAN EDERER: They are still  
4 paying on a current basis, so they're not paid -- they  
5 haven't paid the full 230.

6 MR. FENNER: No. Because the timing --

7 MS. LEON: They're not due until  
8 September.

9 MR. FENNER: Right, they're not due until  
10 September. At the time we entered the current fiscal  
11 year, they were active-other and so they were able to  
12 prorate over that period of time.

13 VICE-CHAIRMAN EDERER: All right.

14 COMMISSIONER MARTIN: And if they're  
15 inactive, then what happens with the fees?

16 VICE-CHAIRMAN EDERER: The fees are still  
17 owed.

18 MR. FENNER: The fees are still owed,  
19 yes, sir. Yes, sir. If you're asking if you designate  
20 them as inactive at this period of time, would that  
21 accelerate the remaining period? I don't know. I  
22 think that's something that the Chair -- the executive  
23 director would --

24 MR. TROUT: No. We would allow them to  
25 continue to make the monthly payments for this fiscal

1 year. Then next fiscal year, however, in September,  
2 then they would have to pay the full \$230,000 up  
3 front.

4                   However, I would inject that I've asked  
5 our accounting department to look at that and I may be  
6 coming to you very shortly to ask for a rule change to  
7 allow those tracks to spread those payments out over  
8 the year, either quarterly or semiannually or whatever,  
9 to try to provide some relief to those tracks that are  
10 right now paying the entire fee up front. And I  
11 probably will be getting back to you on that issue.

12                   VICE-CHAIRMAN EDERER: So from what I  
13 gather that you've said -- correct me if I'm wrong --  
14 any action taken by the committee at this time will not  
15 have financial repercussions on Saddle Brook as far as  
16 the fee is concerned until September.

17                   MR. TROUT: That's correct.

18                   VICE-CHAIRMAN EDERER: As far as -- we  
19 will have three meetings between now and September. Is  
20 that correct?

21                   MR. TROUT: I believe so, yes, sir.

22                   VICE-CHAIRMAN EDERER: Now, at any time  
23 during any of those three meetings, they can come  
24 forward and present to us new criteria which would  
25 qualify them for an active-other.

1 MR. TROUT: Yes, sir.

2 VICE-CHAIRMAN EDERER: So they would  
3 have -- they have a period of time to do this and to  
4 ask for race dates.

5 MR. TROUT: Yes, sir.

6 MS. O'CONNELL: Could they also ask for a  
7 bond? Is there a bond option? Or I guess --

8 MR. FENNER: There is a bond of option --  
9 a bond option. And it provides that if they put up  
10 \$400,000 when they are getting their live race dates  
11 that -- if they fail to conduct their live racing, then  
12 they don't go through this process we have right now  
13 today. They don't have to undergo the subsequent  
14 review of the designation. Instead, they forfeit the  
15 \$400,000 to the purses and the accredited Texas-bred  
16 fund to support racing.

17 MS. O'CONNELL: So that basically ends  
18 up -- if someone did have a bond forfeited, that's sort  
19 of the way that the horsemen get helped while they're  
20 waiting for the tracks to come online to give them more  
21 opportunity.

22 MR. FENNER: Yes, ma'am.

23 VICE-CHAIRMAN EDERER: Any other  
24 questions or comments?

25 COMMISSIONER WEINBERG: So I have a

1 question. Do we need to take action today? I'm a  
2 little confused.

3 VICE-CHAIRMAN EDERER: Yes, I believe we  
4 do. Don't we?

5 MR. FENNER: You're doing the action  
6 right now, which is you shall review.

7 VICE-CHAIRMAN EDERER: We shall review.

8 MR. FENNER: Right. That's all. But you  
9 don't have to change if you don't want to.

10 VICE-CHAIRMAN EDERER: Mr. Hooper?

11 Mr. Hooper represents Saddle Brook.

12 MR. HOOPER: Thank you, Commissioners.

13 My name is Jeff Hooper and I'm here on behalf of Saddle  
14 Brook Park. Also with me today is Mr. Lynn Alexander,  
15 the managing partner of Saddle Brook. I just wanted to  
16 give you all a very quick update on Saddle Brook  
17 activities.

18 I would say that we do have a very active  
19 license, but our business plan is just in transition  
20 right now due to recent events. As you may be aware,  
21 Saddle Brook conducted 24 months of simulcast  
22 operations, generating a total handle of over 9.2  
23 million dollars. The track has paid all its fees due  
24 to the Racing Commission in a very timely manner.

25 Those simulcast operations also generated

1 over \$557,000 for the horsemen's purse account and  
2 approximately \$80,000 for the accredited Texas-bred  
3 programs. Plus, Saddle Brook generated \$87,000 in  
4 pari-mutuel taxes for the State and generates and  
5 generated employment there in the Amarillo area plus  
6 the purchase of goods and services while we were  
7 there.

8 Saddle Brook also, of course, missed its  
9 two live race dates in October of 2014. Those were  
10 charity dates. Saddle Brook did go ahead and pay the  
11 appropriate amount of money to those charities that  
12 were to be the beneficiary of those charity dates.

13 Currently the Alexanders own 286 acres of  
14 land in a tract of land there in Randall County that  
15 was purchased specifically for the construction of a  
16 racetrack. There have been lengthy discussions and  
17 work done on a construction budget that I think we've  
18 shared with you that has the track, the barn area, the  
19 parking area, and the clubhouse building coming in at  
20 just over seven and a half million dollars for the  
21 construction of all the facilities. And Saddle Brook  
22 definitely continues to exercise good faith efforts to  
23 bring live racing to Amarillo.

24 Also, as you may recall, we've had a  
25 discussion here. There's been one about live race

1 dates. Saddle Brook put in a request to open a live  
2 race date period for the fourth quarter of 2016. We  
3 also put in a request for live racing dates during that  
4 period. But to our knowledge, the Racing Commission  
5 has not taken action on any live race dates, the  
6 granting of those dates, for the fourth quarter of  
7 2016. So that request is still in your all's hands.  
8 Again, in good faith, we put in a request for live  
9 racing dates; but to our knowledge, you all haven't  
10 taken action on that yet, so it's still kind of  
11 pending.

12 COMMISSIONER MARTIN: Mr. Hooper, what is  
13 your opinion on your license and what you all have done  
14 with the license?

15 MR. HOOPER: Our goal would be that there  
16 be no change made in its status at this time. Another  
17 thing, given that we're having to revamp the business  
18 plan to some extent, the Alexanders are looking at  
19 maybe bringing in some partners on the facility. And  
20 again, when you go to lenders on a project like this or  
21 you go to potential partners, it makes a significant  
22 difference whether you're active-other or inactive. So  
23 in order to bring live racing to Amarillo, to expedite  
24 that process to the best of our ability, it's really a  
25 benefit to have that active-other status.

1                   Again, this is, we feel, a very active  
2 license. It's just in that transition. The live race  
3 date request is there. And it's really going to set us  
4 back to go to inactive as we have these discussions  
5 with potential lenders or potential new partners.

6                   MS. O'CONNELL: Why not ask for a bond?  
7 Why not put up a bond?

8                   MR. HOOPER: I think then you're looking  
9 at just expense as well.

10                  MS. O'CONNELL: But if you run the dates,  
11 you get your money back.

12                  MR. HOOPER: Yes. But, you know, again,  
13 our goal is to put the efforts and the finances into  
14 the construction of the racetrack, you know, and to try  
15 to make that happen. So, you know, the bond just  
16 diverts some of those funds.

17                  COMMISSIONER ABER: How much would you  
18 have to put up for a 400,000-dollar bond?

19                  MR. HOOPER: I don't know the exact  
20 answer.

21                  MR. FENNER: Just for clarification,  
22 Mr. Hooper, we have a retraction of your request for  
23 race dates. I don't recall whether it came from you or  
24 Mr. Alexander. But we documented through e-mail that  
25 you all had withdrawn the request for race dates in

1 2016.

2 MR. HOOPER: Well, my understanding on  
3 that was that the fourth quarter of 2016 live race  
4 dates were possibly going to be heard at the most  
5 recent Racing Commission meeting two months ago and  
6 then there was a collective decision about deferring  
7 that.

8 MR. FENNER: I have a written  
9 withdrawal.

10 MR. HOOPER: Well, if that's the case,  
11 that's not something that I'm aware of.

12 MR. FENNER: Okay.

13 VICE-CHAIRMAN EDERER: Any other  
14 questions?

15 At the present time you then --  
16 Mr. Fenner, am I correct at the present time they have  
17 no race dates and they have no request for race dates?  
18 Is that correct?

19 MR. FENNER: Yes, sir.

20 VICE-CHAIRMAN EDERER: All right. Other  
21 than the fact that it would make it difficult,  
22 according to what you've said, to get investors, what  
23 other harm would be done if you would be placed into an  
24 inactive status?

25 MR. HOOPER: Well --

1                   VICE-CHAIRMAN EDERER: Keeping in mind  
2 that at the next Commission meeting you could apply for  
3 race dates and at the next Commission meeting you can  
4 show us that you have your investors and that you're  
5 going forward.

6                   MR. HOOPER: Well, it's another setback  
7 for the project -- it really is -- if we were to go  
8 inactive. And we appreciate the comments that were  
9 made here today about the payment of fees and those  
10 types of things. But, you know, that's a -- it's a  
11 very steep fee whether you're paying it on a monthly  
12 basis or on an annual basis.

13                   And again, given what our goals and  
14 thoughts were about continuing our simulcast operations  
15 and the Commission chose to not, you know, provide for  
16 a rule change to let us continue our simulcast  
17 operations, candidly, Saddle Brook has been in a bit of  
18 a scramble mode to regroup and fine-tune the business  
19 plan and make this thing work. So to go inactive is  
20 just another setback for the project.

21                   VICE-CHAIRMAN EDERER: How long will it  
22 take you to get your investors?

23                   MR. HOOPER: If we knew that, I'd be here  
24 with that in writing today. I mean, we're -- we're  
25 working on that actively. But I can't come to you with

1 a date today and say "Here's when we'll have our  
2 investors by."

3 But again, to my understanding, you would  
4 have the ability to review this status in the future.  
5 If you feel like through our communications with your  
6 staff and with the Commission members that we're not  
7 making ample progress with the active-other status, I  
8 don't think there's anything that precludes you from  
9 taking that status to inactive at some date of your  
10 choosing in the future. We're just asking for an  
11 opportunity to succeed.

12 VICE-CHAIRMAN EDERER: How long has  
13 Saddle Brook been licensed?

14 MR. HOOPER: Well, the simulcast  
15 operations took place for two years.

16 VICE-CHAIRMAN EDERER: I understand.

17 MR. HOOPER: The original license I think  
18 was granted perhaps when the track was in Lubbock, or  
19 the license was in Lubbock.

20 VICE-CHAIRMAN EDERER: Mr. Fenner, what's  
21 the purpose of simulcasting, allowing tracks to go  
22 simulcast, prior to racing?

23 MR. FENNER: Preopening simulcasting is  
24 to generate purses for live racing.

25 VICE-CHAIRMAN EDERER: And it's a

1 two-year maximum?

2 MR. FENNER: The temporary location is a  
3 two-year maximum.

4 VICE-CHAIRMAN EDERER: Any other  
5 questions for Mr. Hooper?

6 MR. HOOPER: Thank you very much.

7 VICE-CHAIRMAN EDERER: Just a minute. I  
8 might have another question.

9 MR. HOOPER: Okay.

10 VICE-CHAIRMAN EDERER: Other than -- it  
11 seems to me if you're going to be talking to investors  
12 and you're being straight with investors, which I know  
13 you would be, of course, you could explain to them what  
14 the Commission has said, and the Commission has said  
15 that you can reapply at any time to get your  
16 active-other status back, and that at any time you can  
17 come forward and ask for race dates, which puts you  
18 into the position.

19 But you see, you've got us in a position  
20 where you are asking for active-other when, in fact,  
21 you're not active-other and, in fact, it doesn't seem  
22 that you will be active-other in the foreseeable  
23 future. Am I -- am I missing something here?

24 MR. HOOPER: Well, I think we  
25 definitely -- as of today, Saddle Brook is

1 active-other. This is the date, you know, that you all  
2 are doing the initial review on that status. And, you  
3 know, our goal was to maintain that status and comply  
4 with your criteria to be an active-other license. And  
5 we feel it definitely does create a greater probability  
6 of success in building that racetrack to have that  
7 active-other status when we're in these discussions  
8 with partners or investors. And definitely we'll be  
9 straight up with them, as we are with you. I'm just  
10 saying, you know, that is --

11 VICE-CHAIRMAN EDERER: I understand  
12 that.

13 MR. HOOPER: We can tell them, you know,  
14 "Here's the criteria that we can gain that status  
15 back"; but it's to the benefit of building that  
16 racetrack to have that active-other status.

17 COMMISSIONER MARTIN: Is there anybody  
18 with you that could maybe discuss more the retracted  
19 dates? Because it looks like there is a little bit of  
20 confusion over that. Does Mr. Alexander have any more  
21 information or anything?

22 MR. ALEXANDER: No, sir. I mean, yes, I  
23 can answer. And I don't know. I don't know if we  
24 retracted them from the request or what the reason for  
25 it was.

1 COMMISSIONER MARTIN: Do we know today --

2 MR. ALEXANDER: I would like to, if I  
3 might, though -- would you repeat the criteria for  
4 inactive-other -- or active-other? I'm sorry.

5 MR. FENNER: For active-other? Yes,  
6 sir. An active-other track means the license holder  
7 has applied for and received pending live race dates  
8 and has taken the following actions to demonstrate good  
9 faith efforts to conduct live racing. And there's two  
10 part -- there's two options here: That they're either  
11 presently conducting preopening simulcasting or they've  
12 demonstrated that the conduct of simulcast or live  
13 racing is imminent.

14 And then there's a list of factors that  
15 you may consider, such as sufficient financial  
16 commitments, securing the real property, entering into  
17 contracts for construction, securing Commission  
18 approval of the construction plans, securing permits  
19 and utilities, beginning and sustaining construction of  
20 the facilities, and providing to the Commission the  
21 construction and operations management schedule. And  
22 the third option is the bond.

23 MR. ALEXANDER: I'd just like to point  
24 out that we have demonstrated good faith efforts. I  
25 was involved when the Commission adopted those rules

1 and there was a big discussion about what is good faith  
2 effort. And we have done that. We put up a simulcast  
3 facility. We spent a lot of money. It didn't work.  
4 We came to you guys and asked for an extension. You  
5 voted us down. We have spent a ton of money on our  
6 license and on license fees. Our effort has been there  
7 and it has been in good faith. And I don't know how --  
8 I don't know any other license that's done what we've  
9 done.

10 And so we are demonstrating a good faith  
11 effort and all we're asking you guys to do today is --  
12 you do not have to take any action. You have -- within  
13 four months you're supposed to hear it. We're just  
14 saying please don't take any action. Leave us  
15 active-other today. That's --

16 COMMISSIONER MARTIN: I appreciate the  
17 fact that you have -- I mean, out of all the tracks,  
18 you have made an effort and --

19 MR. ALEXANDER: We're still making an  
20 effort.

21 COMMISSIONER MARTIN: And I realize  
22 that.

23 MR. ALEXANDER: And that's what the rule  
24 says right there.

25 VICE-CHAIRMAN EDERER: Can you give us

1 some sort of a time frame, Mr. Alexander?

2 MR. ALEXANDER: For what?

3 VICE-CHAIRMAN EDERER: That your  
4 situation may improve, that you may have the investors  
5 come in, that you may be able to start construction on  
6 a track or a relocation of where you would have your  
7 pari-mutuel betting at a future track location.

8 MR. ALEXANDER: No. If you tell us -- if  
9 you give us some time, we can come up with a time frame  
10 for you. I think we've delivered that to you once  
11 before and just, economically, it just was impossible.

12 I mean, the Commission -- I think that  
13 one of your responsibilities or jobs -- and I know you  
14 know your job better than I do -- is to help the racing  
15 industry and help the racetracks. And these are  
16 tremendous burdens, these license fees that we have.  
17 And all of us are just trying to make fees when you're  
18 inactive. Paying \$230,000 a year for oversight is very  
19 difficult. And we're just trying to overcome those  
20 fees and trying to keep our license alive.

21 VICE-CHAIRMAN EDERER: I understand that,  
22 but you have been running simulcasts for the last two  
23 years also.

24 MR. ALEXANDER: It didn't -- that didn't  
25 help. We didn't make any money at all. You have the

1 audited financial statements. If you all have not seen  
2 them, I know that Mr. Trout and Mr. Fenner have looked  
3 at them.

4 MS. O'CONNELL: I think the purpose of  
5 that inactive rule, the inactive license designation,  
6 was to acknowledge that some racetracks, you know, may  
7 have setbacks or they may just be slow getting up to  
8 speed for whatever reason and that if they're kind of  
9 in that phase where things are very ambiguous and  
10 you're doing reorganizations and that type of thing  
11 that that is the time when the Commission wants to be  
12 involved, keeping a pretty close look at what's going  
13 on to try to nurture the license to get up to a more  
14 advanced state.

15 And so what I'm hearing from you is that  
16 you have had good faith efforts. You definitely did  
17 meet the definition of active-other. We were willing  
18 to change your designation. You did meet the  
19 criteria. You did the simulcasting as long as you  
20 could. But it didn't -- it didn't go as you expected  
21 and so now there's been a setback and now that's kind  
22 of requiring you to kind of rethink your licensing  
23 strategy. And that's the kind of situation that the  
24 rule envisions as being a situation where the  
25 Commission would want to be involved in that and that's

1 why there are those annual reviews.

2                   And, you know, to let a license that is  
3 sort of this much -- this in flux kind of go basically  
4 unsupervised for five years, that is really not what  
5 that Sunset Commission and the Legislature entailed.  
6 And so I think there's a concern that there's a duty  
7 to -- or mandate from the Legislature in 2001 to  
8 designate these licenses appropriately and do our job  
9 in that respect.

10                   I mean, our job is to regulate licensing  
11 and pari-mutuel wagering and our job is to carry out  
12 the mandates of the Legislature. And so -- and our job  
13 is to help, you know, review those licenses that are in  
14 flux.

15                   And so those are some thoughts and  
16 concerns that we would have about -- we'd be concerned  
17 that a license that is this much in flux should not  
18 just sit and not be reviewed for five years. It should  
19 be -- there should be active engagement with the staff  
20 to help nurture the license along. And if you end up  
21 having a situation where you do meet the criteria of  
22 active-other, you know from past experience that this  
23 Commission will promptly redesignate you.

24                   MR. ALEXANDER: Any other questions?

25                   VICE-CHAIRMAN EDERER: No, I don't think

1 so. I don't have any. Thank you.

2 As I understand it now, Mr. Fenner, we  
3 have a potential of three actions actually. One would  
4 be a motion to change the designation of Saddle Brook's  
5 license from active-other to inactive. The second  
6 would be a motion to leave the designation of Saddle  
7 Brook Park's license as active-other. And the -- I  
8 guess there would be a third, which would be to table  
9 this until the next meeting to give Saddle Brook the  
10 opportunity -- Mr. Alexander has just requested an  
11 opportunity to be able to come back with us -- to us  
12 and tell us -- I mean, I think he realizes now that  
13 we're going to take action. I think the Commission is  
14 definitely going to take action.

15 So I believe those are the three  
16 options. Is that correct?

17 MR. FENNER: I think that those are all  
18 valid options. You could definitely table this if you  
19 prefer or either of the other two motions.

20 COMMISSIONER MARTIN: I would make a  
21 motion to table it for a couple of months and give them  
22 the opportunity to come back to us with some type of  
23 plan. And as tough as it is to get investors these  
24 days and that sort of thing, as tough as the racing  
25 business is right now, I make a motion to give them at

1 least until the next meeting.

2 COMMISSIONER ABER: Let me -- what about  
3 if you give them -- the next meeting they have to  
4 decide?

5 VICE-CHAIRMAN EDERER: Yes, that's pretty  
6 much what your motion is.

7 COMMISSIONER MARTIN: Yeah. Yeah.

8 COMMISSIONER WEINBERG: I'll second  
9 that.

10 VICE-CHAIRMAN EDERER: All those in favor  
11 of tabling this until the next meeting -- what we would  
12 be tabling is we'd be tabling the review of the license  
13 designation of Saddle Brook as required under the  
14 Commission rule. We would be tabling this for  
15 approximately 60 days, until the next meeting. And  
16 that would -- all those in favor?

17 COMMISSIONERS: Aye.

18 VICE-CHAIRMAN EDERER: Any opposed?

19 MS. O'CONNELL: Nay.

20 VICE-CHAIRMAN EDERER: Ms. O'Connell has  
21 a nay vote. The rest is -- so the motion does carry.  
22 This will be tabled for 60 days.

23 And, Mr. Alexander, we want to work with  
24 you, but you need to come up with something to help us  
25 here. Try to fit into this designation somehow, with

1 investors or whatever, and also be aware -- of course,  
2 you know you don't have any race dates.

3 MR. FENNER: We will double-check that  
4 status of the request as well.

5 VICE-CHAIRMAN EDERER: All right. Thank  
6 you. And of course, any help we can give to Saddle  
7 Brook to help them, because they have definitely shown  
8 a serious intent in the past couple of years. They've  
9 worked very hard and they have spent some money. So if  
10 we can work with them, let's do that.

11 Review of license designation for Valle  
12 de los Tesoros as required under Commission Rule  
13 309.5.

14 Mr. Fenner?

15 MR. FENNER: Yes, sir, Mr. Chairman.

16 This is a very similar discussion to what  
17 you just had with Saddle Brook Park. The six dates  
18 that Valle de los Tesoros were granted were November 21  
19 through 23rd and November 28th through 30th of 2014.  
20 They did not run those race dates. And therefore, this  
21 is your opportunity to review the license designation.

22 I believe Mr. Moltz is here if you have  
23 any questions and I'm happy to answer any questions.

24 VICE-CHAIRMAN EDERER: As far as  
25 questions for you, does the track have any race dates

1 scheduled at this point in time?

2 MR. FENNER: No, sir.

3 MR. MOLTZ: Mr. Vice-Chairman,  
4 Commissioners.

5 VICE-CHAIRMAN EDERER: Mr. Moltz?

6 MR. MOLTZ: My name is Bill Moltz. I'm  
7 here on behalf of --

8 VICE-CHAIRMAN EDERER: Excuse me. Before  
9 you get started, does anybody -- I'm sorry. Does  
10 anybody have any questions for Mr. Fenner before we  
11 have Mr. Moltz speak?

12 All right. Go ahead, Mr. Moltz. Sorry.

13 MR. MOLTZ: I'm going to keep this real  
14 short, just sort of give you a status report. I  
15 believe we understand where the Commission is coming  
16 from with regard to active versus inactive. We are not  
17 requesting a delay. An action today is fine. We don't  
18 need it tabled. And the bottom line is while we  
19 request that it remain unchanged, we do understand what  
20 the Commission is saying and we do have plans going  
21 forward, which I will very briefly get into here in a  
22 minute.

23 But again, the bottom line is,  
24 Vice-Chairman Ederer, is correct that as part of the  
25 plans, it would include a request for race dates. It

1 could include a request for a redesignation back to  
2 active. And so we do understand where the Commission  
3 is coming from and the statements that have been made  
4 here today.

5           As far as a more or less status report,  
6 as you -- as you know, the plans were all put on hold  
7 back during this rulemaking process, but they're back  
8 on the track now. There are discussions going on with  
9 local officials. We've also had a meeting with the  
10 staff. There are negotiations going on, so I can't get  
11 into a lot of detail here today and I'm not sure you'd  
12 want to hear them anyway. But there are plans and they  
13 are moving forward and we do expect to be back in the  
14 relatively near future with a real plan and, if  
15 appropriate, request for race dates and, if necessary,  
16 a request for redesignation.

17           So there are things going on. We are  
18 meeting with the staff and local officials to get  
19 things going. But there's a definite plan. But we do  
20 understand that we don't have race dates. We did  
21 request them; but as part of this plan to request  
22 appropriate race dates, we withdrew that request. So  
23 we do not have a request pending. There is not  
24 currently simulcasting at the site. And again, while  
25 we request that it remain unchanged, we do understand

1 where the Commission is coming from.

2 I'd be happy to answer any questions or  
3 Mr. Azopardi is here if you get beyond what I know  
4 about it.

5 VICE-CHAIRMAN EDERER: Any questions for  
6 Mr. Moltz?

7 COMMISSIONER MARTIN: Could you remind me  
8 whether you all had land purchased already or not?

9 MR. MOLTZ: Excuse me?

10 COMMISSIONER MARTIN: Do you all have the  
11 land purchased?

12 MR. MOLTZ: Yes, we do have a -- the site  
13 belongs to the owners, yes.

14 Anything else?

15 VICE-CHAIRMAN EDERER: Any other  
16 questions for Mr. Moltz?

17 Thank you.

18 We have the same situation here. We have  
19 a motion to change the designation of Valle de los  
20 Tesoros' license from active-other to inactive.

21 Is there a motion?

22 COMMISSIONER ABER: Let me discuss it a  
23 little bit. Why don't we do the same thing we did with  
24 Saddle Brook and have them at the -- at the next  
25 meeting have some concrete plans?

1                   VICE-CHAIRMAN EDERER: Mr. Moltz is in a  
2 different situation than Saddle Brook is as far as --  
3 at least that's the way I understand the discussion.  
4 They're in a different situation than Saddle Brook in  
5 that their investors are in place. It's a matter of  
6 just getting organized. And so it isn't going to  
7 affect them one way or the other whether they are  
8 active or active-other.

9                   COMMISSIONER ABER: Or inactive?

10                  VICE-CHAIRMAN EDERER: Or inactive.  
11 Excuse me. I meant inactive. I didn't say that  
12 right.

13                  COMMISSIONER MARTIN: And I think my  
14 point with Saddle Brook was at least they have made an  
15 effort and got to the simulcasting part and are still  
16 actively trying to get things moving forward or at  
17 least active-otherly trying.

18                  COMMISSIONER ABER: So what would you say  
19 on them? Do you want to keep them active-other?

20                  VICE-CHAIRMAN EDERER: Well, I think that  
21 they do not meet our criteria at this point in time to  
22 be active-other. They're well aware of the discussion  
23 and it really won't affect them much as I understand  
24 it. It won't affect them one way or the other whether  
25 they're active or active-other. But of course, it

1 certainly will affect the rules and regulations of the  
2 Commission as far as how we go forward in designating  
3 criteria for tracks to have.

4 Any other discussion?

5 All right. Are there any motions to be  
6 made?

7 MS. O'CONNELL: I move to redesignate as  
8 inactive.

9 COMMISSIONER ABER: I'll second that.

10 VICE-CHAIRMAN EDERER: All in favor?

11 COMMISSIONERS: Aye.

12 VICE-CHAIRMAN EDERER: Opposed?

13 So the motion was made to change the  
14 designation of Valle de los Tesoros' license from  
15 active-other to inactive and it has passed.

16 All right. Now, Mr. Moltz, you've heard  
17 the discussion and you know that we certainly are  
18 willing to listen to your future activity and your  
19 progress. And we wish you all the luck in the world  
20 and it sounds like you are moving forward and I know  
21 that from other discussions and we appreciate that. So  
22 we look forward to hearing from you in the near  
23 future. We like having you come and visit with us,  
24 too, Mr. Moltz.

25 Next, allocation of live race dates for

1 greyhound racetracks under Commission Rule 303.41 for  
2 the period beginning January 1, 2015, and ending August  
3 31, 2016.

4 Do we have race dates requested for  
5 greyhound tracks at this time?

6 MR. FENNER: Yes, sir.

7 VICE-CHAIRMAN EDERER: What are those?

8 MR. FENNER: They have requested  
9 permission to conduct evening performances on August  
10 24th through August 28th of 2016.

11 VICE-CHAIRMAN EDERER: All race -- all  
12 greyhound tracks have?

13 MR. FENNER: No, sir. This is for Gulf  
14 Coast Racing.

15 VICE-CHAIRMAN EDERER: It doesn't say  
16 that.

17 MR. FENNER: I'm sorry. Yes, sir. It's  
18 limited.

19 VICE-CHAIRMAN EDERER: I was a little  
20 confused there. You confused the chairman.

21 Gulf Coast Racing has requested those  
22 particular race dates.

23 MR. FENNER: Yes, sir.

24 VICE-CHAIRMAN EDERER: Do you have any  
25 comments, Mr. Fenner?

1 MR. FENNER: Only that they are currently  
2 conducting preopening simulcasting, but they do not  
3 have any live race dates in the future. If these live  
4 race dates are not granted, they will have to stop  
5 simulcasting.

6 VICE-CHAIRMAN EDERER: And of course,  
7 they're racing also.

8 MR. FENNER: They're not conducting live  
9 racing.

10 VICE-CHAIRMAN EDERER: The next -- excuse  
11 me. The next item that we need to take up along with  
12 this one is a review of the license designation for  
13 Gulf Coast Racing as required under Commission Rule  
14 309.51. So this is the same situation that we've had  
15 on the first two tracks. However, the difference in  
16 this one is greyhound racetracks are requesting race  
17 dates at this point in time and they are, in fact,  
18 conducting simulcast racing. Is that correct?

19 MR. FENNER: Yes, sir. So if the  
20 Commission grants the live race dates, then they would  
21 meet the criteria for being designated as active-other  
22 under the rule.

23 VICE-CHAIRMAN EDERER: Mr. James? Nick  
24 James?

25 MR. JAMES: Yes, sir.

1 VICE-CHAIRMAN EDERER: Did you want to  
2 make a comment?

3 MR. JAMES: No. I was for it.

4 VICE-CHAIRMAN EDERER: Okay. You've got  
5 two cards in here all for it.

6 Sally Briggs?

7 MS. BRIGGS: Good morning. Sally  
8 Briggs. I'm operations manager for Gulf Coast Racing.

9 And we did have dates in 2014 which we  
10 did not run live. You are correct. However, we did  
11 pay charity days for those five days that were granted  
12 to different -- to four different charities, but we did  
13 have five days that we did pay charities.

14 We have requested dates for 2016, five  
15 dates in -- five days in August. Right now we're  
16 trying to work out some issues about running those live  
17 race dates between us and Gulf Greyhound Park.

18 Unfortunately, there are not enough greyhounds for us  
19 to run at both places, so that would mean that we will  
20 have an issue of running at Gulf Greyhound when we do  
21 run at Gulf Coast.

22 In 2014 Gulf Coast Racing bet seven -- a  
23 little over \$769,000 on greyhounds in Texas at Gulf  
24 Greyhound Park and about \$177,000 on horses in Texas.  
25 The total handle was 8.1 million to dogs and 4.1

1 million for horses in 2014. And that's greyhound and  
2 horse tracks across the U.S.

3           The part of that handle that was added to  
4 the purse for the kennels at Gulf Greyhound was about  
5 \$335,000. If Gulf Coast Racing is no more and our  
6 kennels at Gulf Greyhound Park lose that money to go to  
7 their purses, then that would be very devastating to  
8 the kennels at Gulf Greyhound.

9           We also -- along with the charities,  
10 we've paid about 800 -- well, around 900,000, about  
11 \$950,000 to the State in breakage, taxes, payroll,  
12 property taxes, et cetera, and about \$128,000 in  
13 utilities in Corpus. Our salaries in 2014 were about  
14 \$344,000. So we have contributed -- we have quite a  
15 few employees there and have contributed a lot to the  
16 community.

17           So like I said, we do have issues to work  
18 out to run those dates, but we are planning to run  
19 them.

20           So I'll be happy to try to answer any  
21 other questions.

22           VICE-CHAIRMAN EDERER: Your request for  
23 dates are -- there's a lot of them, January 1 through  
24 August 31, '16. Is the reason why you have  
25 requested -- you have not requested actual specific

1 dates -- or have you actually --

2 MS. BRIGGS: Yes, sir.

3 VICE-CHAIRMAN EDERER: As I look down at  
4 my thing, I see.

5 MS. BRIGGS: We have requested five dates  
6 at the end of August in 2016.

7 VICE-CHAIRMAN EDERER: All right. Are  
8 you optimistic that those dates can be run?

9 MS. BRIGGS: Yes, sir. Hopefully, if we  
10 can get all these issues worked out, then we are  
11 optimistic that we will be able to run them.

12 VICE-CHAIRMAN EDERER: Gulf Greyhound  
13 will be working with Gulf Coast, of course.

14 MS. BRIGGS: Yes, sir. We already are.  
15 We already are discussing how we can make this work.

16 VICE-CHAIRMAN EDERER: So if any  
17 equipment is lacking, Gulf will supply that to assist.

18 MS. BRIGGS: Uh-huh.

19 VICE-CHAIRMAN EDERER: And then Gulf  
20 would shut down for the days that they're racing  
21 probably?

22 MS. BRIGGS: Probably, because we won't  
23 have enough greyhounds to run both places. There just  
24 aren't enough greyhounds anymore to run both places.

25 VICE-CHAIRMAN EDERER: Mr. Fenner, I have

1 a question. These dates, if we say August 24th to the  
2 28th and we approve those dates, can they change those  
3 dates?

4 MR. FENNER: Yes, sir.

5 VICE-CHAIRMAN EDERER: So they can back  
6 them up to, say, March --

7 MR. FENNER: Yes, sir.

8 VICE-CHAIRMAN EDERER: -- when the  
9 snowbirds are in Corpus.

10 MR. FENNER: Yes, sir, they could, with  
11 the Commission's permission.

12 VICE-CHAIRMAN EDERER: They'd have to  
13 come before the Commission to ask for that.

14 MR. FENNER: For that big a change, yes,  
15 sir.

16 COMMISSIONER STEEN: Ms. Briggs, could  
17 you elaborate on what -- you said the issues that you  
18 need to work out, that's mainly the lack of dogs, but  
19 are there other -- can you just describe for us --

20 MS. BRIGGS: There's other issues at the  
21 track, yes, sir. There are -- that track has not run  
22 live in about eight or nine years, so there's no  
23 equipment there. And, you know, there's just a lot of  
24 issues to work out as far as the kennel buildings and  
25 the -- mostly with just -- since we are simulcasting,

1 the building is fine. It's just the issue of running  
2 live, the actual track surface, the equipment to keep  
3 the track surface in shape, starting boxes, like I  
4 said, the kennel buildings.

5 COMMISSIONER STEEN: Thank you.

6 VICE-CHAIRMAN EDERER: Any other  
7 questions?

8 Thank you.

9 MS. BRIGGS: Thank you.

10 VICE-CHAIRMAN EDERER: The motion  
11 before -- there's not a motion. There's a motion for  
12 live race dates -- requesting live race dates for  
13 August 24th through 28th by Gulf Coast Racing. That's  
14 2016.

15 Is there a motion?

16 COMMISSIONER WEINBERG: I'll make a  
17 motion to approve the dates.

18 VICE-CHAIRMAN EDERER: Is there a  
19 second?

20 COMMISSIONER HICKS: I'll second it.

21 VICE-CHAIRMAN EDERER: A motion has been  
22 made by Vicki Weinberg and seconded by Gloria Hicks.

23 All those in favor?

24 COMMISSIONERS: Aye.

25 VICE-CHAIRMAN EDERER: Any opposed?

1 Thank you. The motion carries.

2 Proceedings on occupational licenses.

3 Discussion, consideration, and possible action on the  
4 following matter --

5 MR. FENNER: Mr. Chairman, we still need  
6 to take action on the license designation or you  
7 could -- there were two issues, the issue of granting  
8 the live race dates and then do you want to make a  
9 change on the designation.

10 VICE-CHAIRMAN EDERER: I'm sorry. All  
11 right. So what -- all right, Mr. Fenner. So where are  
12 we?

13 MR. FENNER: We are considering whether  
14 or not -- on No. F there, whether or not the  
15 designation of Gulf Coast Racing's license, which is  
16 currently active-other, should remain the same or  
17 whether it should be changed.

18 VICE-CHAIRMAN EDERER: Any discussion?

19 Is there a motion?

20 COMMISSIONER ABER: I'll make the motion  
21 to designate it as the same.

22 VICE-CHAIRMAN EDERER: The motion has  
23 been made.

24 Is there a second?

25 COMMISSIONER STEEN: Second.

1 VICE-CHAIRMAN EDERER: A motion made by  
2 Gary Aber and seconded by John Steen.

3 All those in favor?

4 COMMISSIONERS: Aye.

5 VICE-CHAIRMAN EDERER: Any opposed?

6 The motion carries.

7 All right. I'll catch up to myself.

8 Proceedings on occupational licenses. Discussion,  
9 consideration, and possible action on the following:

10 The proposal for decision in SOAH -- that's Sam  
11 Houston? Is that correct? SOAH?

12 MR. FENNER: That's the State Office of  
13 Administrative Hearings. That's the hearing number.

14 VICE-CHAIRMAN EDERER: Okay. State  
15 Office of Administrative Hearings No. 476-15-0437, In  
16 Re: The Appeal of Joseph Vacca From Stewards' Ruling  
17 RETA 4811.

18 Ms. Bijansky, please.

19 MS. BIJANSKY: Mr. Chairman,  
20 Commissioners, good morning. I'm here to present for  
21 final action the case against trainer Joseph Vacca for  
22 a methamphetamine positive in the horse Dash For Cache  
23 at Sam Houston Race Park on May 3rd of last year.

24 You may hear methamphetamine and be  
25 alarmed and you'd be right if you are. This is an

1 illegal substance, period. It's illegal in humans.  
2 It's illegal in horses. It's illegal to buy. It's  
3 illegal to sell. It absolutely has the potential to  
4 affect the outcome of a race.

5           In our investigation and in the hearing,  
6 it was unclear how it got into the horse. Mr. Vacca  
7 denied administering it or exposing the horse in any  
8 way. His only theory was that perhaps an exercise  
9 rider, who may have had a drug problem and who  
10 Mr. Vacca allowed access to the horse, may have been  
11 the one to expose it.

12           It's important to note, I think, that he  
13 did not actually challenge the positive itself. He  
14 didn't challenge the scientific finding of the  
15 positive.

16           In any event, the absolute insurer rule  
17 holds Mr. Vacca responsible and the stewards found him  
18 responsible. Following the penalty guidelines, they  
19 ruled that he should be suspended for a year, pay a  
20 10,000-dollar fine, and that the horse should be  
21 disqualified and the purse redistributed. Mr. Vacca  
22 requested a stay of the suspension and was granted a  
23 six-month stay, which ended on January 24th, so he is  
24 currently under suspension.

25           The State Office of Administrative

1 Hearings reviewed the case and then agreed with the  
2 stewards, so it's before you today for final action.

3           There's a draft order in your materials  
4 beginning on page 54 and I have a clean copy here. The  
5 order adopts the stewards' ruling in full, imposing the  
6 one-year suspension, the fine of \$10,000, and  
7 disqualifying the horse. So I would ask that you adopt  
8 the stewards' ruling in full.

9           Mr. Vacca is here and I believe he would  
10 like to address you as well.

11           VICE-CHAIRMAN EDERER: Are there --  
12 excuse me. Are there any questions?

13           I have a question. Could you tell us the  
14 procedure that's followed by the stewards?

15           MS. BIJANSKY: Yes. The case was  
16 initially investigated, of course, by our  
17 investigators. TVMDL did the testing. It was then  
18 forwarded to the stewards, who sent out a notice of  
19 hearing. The licensee at that point can either accept  
20 their sort of proposed sanction or can go to the  
21 hearing.

22           We did have the hearing. Mr. Vacca was  
23 represented by counsel at that hearing. Following the  
24 hearing, the stewards ruled as I mentioned. And at  
25 that point the appeal was then filed with the State

1 Office of Administrative Hearings.

2 Does that answer your question?

3 VICE-CHAIRMAN EDERER: Yes, exactly. So  
4 Mr. Vacca was present with his attorney --

5 MS. BIJANSKY: Yes, sir.

6 VICE-CHAIRMAN EDERER: -- in front of the  
7 stewards. And then his appeal was had and it was  
8 confirmed. Is that correct?

9 MS. BIJANSKY: Correct.

10 VICE-CHAIRMAN EDERER: All right. And  
11 now you're before us for the final action.

12 COMMISSIONER MARTIN: Do we know what the  
13 particular drug was? It just says methamphetamines  
14 here.

15 MS. BIJANSKY: That's all I believe the  
16 lab report said.

17 COMMISSIONER MARTIN: Methamphetamine?  
18 Okay.

19 VICE-CHAIRMAN EDERER: Any other  
20 questions?

21 Thank you.

22 Mr. Vacca?

23 MR. VACCA: Yes, sir.

24 VICE-CHAIRMAN EDERER: Do you have an  
25 attorney, Mr. Vacca, or do you want to just talk

1 yourself?

2 MR. VACCA: Excuse me?

3 VICE-CHAIRMAN EDERER: Do you have an  
4 attorney or do you just want to speak yourself?

5 MR. VACCA: I'm afraid he couldn't make  
6 it here today, so I'm here to speak to the Commission,  
7 the chairman.

8 I've been training for over 40 years and  
9 never had a bad test. And I've trained in Houston, run  
10 in Houston for over 20 years or so. And this -- a  
11 person got to the animal. And I know we have that rule  
12 and that we're responsible for the animal that's in our  
13 care. And I just want to make a comment and plead to  
14 the Commission for less, you know, fine and if I can  
15 restate, you know, take some of the year off.

16 I know that I've been -- you know, I know  
17 I'm responsible for the animal and all that. We went  
18 through the hearing. So that's basically what we --  
19 what I said before is right now, too. So I'm not a  
20 good speaker, but I'm just appealing to the Commission  
21 to take into consideration that.

22 And, you know, I never had a bad test in  
23 over 40 years and I've trained in Houston, Sam Houston,  
24 Lone Star. I never had a bad test since we had the  
25 pari-mutuel here. And so pretty much if the animal

1 can't run, he'll stay home. And I'm just appealing to  
2 you. That's all I can --

3 VICE-CHAIRMAN EDERER: Do you have horses  
4 that you're training now, Mr. Vacca?

5 MR. VACCA: I had 15, sir.

6 VICE-CHAIRMAN EDERER: You had 15?

7 MR. VACCA: Yes.

8 VICE-CHAIRMAN EDERER: So now you're  
9 suspended, so you cannot go --

10 MR. VACCA: Well, yeah. I mean,  
11 that's --

12 VICE-CHAIRMAN EDERER: And how long have  
13 you been suspended?

14 MR. VACCA: Well, I've been in appeal  
15 until January 25th, I think, and I found out about this  
16 meeting through the Sam Houston stewards. My attorney  
17 sent me this when we are done and I don't know, you  
18 know. But I just got this in the mail from them and  
19 I've been calling his office and he tells me that he  
20 was sick, so -- you know, but --

21 VICE-CHAIRMAN EDERER: What is it that  
22 you want, Mr. Vacca?

23 MR. VACCA: Excuse me?

24 VICE-CHAIRMAN EDERER: You've been --  
25 you've been convicted, so to speak, and you have lost

1 your appeal and now you're coming to us and you're  
2 requesting consideration from us as far as --

3 MR. VACCA: Yeah, I --

4 VICE-CHAIRMAN EDERER: What is it that  
5 you're requesting us to do besides throw it out? Which  
6 we will not do. At least I don't believe we will do  
7 that. What is it you're requesting?

8 MR. VACCA: Well, I'm trying to reduce my  
9 fine and my -- you know, the one-year suspension.

10 VICE-CHAIRMAN EDERER: To what?

11 MR. VACCA: What?

12 VICE-CHAIRMAN EDERER: You'd be happy  
13 with any reduction you could get. Is that what you're  
14 saying?

15 MR. VACCA: I just feel like I've been  
16 training on my -- I love the game and, you know, I want  
17 to keep doing it.

18 COMMISSIONER STEEN: Mr. Fenner, what is  
19 it the Commission has the ability to do in this  
20 situation, if any?

21 MR. FENNER: You do have the authority to  
22 change the fine and suspension as you feel is  
23 appropriate. When you get into a review of a proposal  
24 for decision by SOAH, you're limited in some respects.  
25 You can't change the facts that were made -- that were

1 found by the administrative law judge. He makes those  
2 decisions. Those are the facts.

3           You can, however, decide that the law as  
4 he's applied them to those facts has been done  
5 inappropriately. And in this case, you could decide  
6 that in light of Mr. Vacca's plea that mitigating  
7 circumstances were not adequately considered and reduce  
8 the fine and suspension accordingly. Or you could  
9 decide that times have changed and it should be  
10 increased. You have a great deal of discretion at this  
11 point in determining what should be assessed.

12           MS. O'CONNELL: What was the original  
13 range of punishment?

14           MR. FENNER: Well, was this a --

15           MS. O'CONNELL: I think it was up to a  
16 25,000-dollar fine, but could the suspension have been  
17 longer?

18           MR. FENNER: The suspension could have  
19 been five years and \$25,000. And then the executive  
20 director, upon appeal, has the authority to increase  
21 the financial penalty to \$100,000. So it could have  
22 been five years and a hundred grand.

23           COMMISSIONER STEEN: So this is on the  
24 low end of the range already?

25           MR. FENNER: It's consistent with the

1 RCI's recommended penalties.

2 COMMISSIONER ABER: Can I ask a  
3 question? What is the status? What did like the --  
4 like the DA's office, what do they do when they find  
5 something like methamphetamine? The criminal charges.  
6 What happens there?

7 MR. FENNER: Well, I don't know that they  
8 were brought into this case.

9 MR. TROUT: They weren't brought into  
10 this case.

11 COMMISSIONER ABER: So we don't bring  
12 them in?

13 MS. O'CONNELL: They can only prosecute  
14 the people that are in the possession of  
15 methamphetamine and I thought the finding here was  
16 Mr. Vacca was not found in possession of  
17 methamphetamine. The horse tested --

18 COMMISSIONER ABER: He's being  
19 investigated. I would think the DA's office --

20 VICE-CHAIRMAN EDERER: The findings -- am  
21 I correct that the findings were that nobody knows how  
22 the drug was administered or who administered the drug,  
23 but Mr. Vacca is the responsible party?

24 MR. FENNER: Yes, sir.

25 VICE-CHAIRMAN EDERER: The buck stops

1 here, so to speak.

2 MR. FENNER: Yes, sir, that's correct.

3 VICE-CHAIRMAN EDERER: Okay.

4 COMMISSIONER MARTIN: Is this one of the  
5 steeper fines that has been handed down through this  
6 process or not so much?

7 MR. FENNER: Yes, sir, but that is in  
8 part because of a recent change to the statute that  
9 increased the statutory authority of the stewards and  
10 the executive director. So it's not that it would have  
11 been -- not have been applied in the past had they had  
12 the sufficient authority. It's just that when the  
13 penalty authority was increased to accommodate the RCI  
14 penalty guidelines, this is really one of the earliest  
15 cases that has come up since that change that involves  
16 such a serious penalty.

17 COMMISSIONER WEINBERG: And who  
18 supposedly gave this meth to the horse?

19 MR. FENNER: Do you want to take a shot  
20 at that?

21 MS. BIJANSKY: In the hearing -- excuse  
22 me. In the hearing, the theory that was presented was  
23 that there was this exercise rider named Derrick  
24 Tashin, I believe, who had interacted with the horse, I  
25 think, at the track and also at the training center.

1 And there was speculation that he had a drug problem.  
2 There was no specific evidence of that presented in the  
3 hearing. And likewise, it was speculation that he was  
4 the one who somehow had administered or exposed the  
5 horse.

6 The stewards did consider whether that  
7 constituted a mitigating circumstance. The penalty  
8 guidelines do provide for a variety of mitigating  
9 circumstances, but they state that it has to be more  
10 than mere speculation that the circumstances may have  
11 existed.

12 So in light of that and the nature of the  
13 allegation of this person's involvement, they concluded  
14 that it didn't constitute a mitigating circumstance and  
15 that the baseline penalty recommendation should be  
16 imposed.

17 COMMISSIONER WEINBERG: And the only way  
18 a horse could have this is through an injection?

19 MS. BIJANSKY: I believe there are other  
20 ways.

21 COMMISSIONER MARTIN: I mean, it could be  
22 given orally.

23 COMMISSIONER WEINBERG: Okay.

24 COMMISSIONER MARTIN: There's several  
25 different options for that. So he could have ingested

1 it instead of it being injected. But he still had to  
2 get it in some form or fashion.

3 MS. O'CONNELL: But it's an illegal  
4 drug. I mean, it wouldn't have been like a  
5 veterinarian happened to have a supply of it and  
6 someone accidentally got into it.

7 COMMISSIONER MARTIN: No.

8 MS. O'CONNELL: It would not be in any  
9 kind of horse training facility.

10 COMMISSIONER MARTIN: It is not a  
11 therapeutic drug, no.

12 MS. O'CONNELL: So after the stewards'  
13 hearing, there was another full hearing at the State  
14 Office of Administrative Hearings and then this -- the  
15 judge is recommending that the Commission should adopt  
16 the stewards' ruling.

17 MS. BIJANSKY: Not exactly. Under the  
18 racing rules, there's sort of a burden shifting at the  
19 SOAH level, so it was then incumbent upon Mr. Vacca and  
20 his attorney to establish that the stewards' ruling was  
21 clearly in error. And they did not do that.

22 MS. O'CONNELL: Thank you.

23 VICE-CHAIRMAN EDERER: Any other  
24 questions?

25 COMMISSIONER MARTIN: And you've been

1 training for how long?

2 MR. VACCA: Over 40 years, sir.

3 COMMISSIONER MARTIN: And never a high  
4 bute or anything?

5 MR. VACCA: I had a couple of tests of  
6 Banamine, bute, the last three or four years, but it  
7 was kind of done by the veterinarian down in  
8 Louisiana. But besides that, I've never had any.

9 VICE-CHAIRMAN EDERER: Are there any  
10 other questions?

11 All right. Thank you, Mr. Vacca.

12 Before the Commission at this point in  
13 time is -- the Chair would exercise a motion to either  
14 uphold the stewards' ruling in full or modify that  
15 ruling. I believe those are our only two options. Is  
16 that correct?

17 MR. FENNER: Yes, sir.

18 VICE-CHAIRMAN EDERER: Is there a  
19 motion?

20 COMMISSIONER ABER: I make a motion to  
21 keep the full -- the full extent of it.

22 VICE-CHAIRMAN EDERER: You make a motion  
23 to uphold the stewards' ruling in SHRP 4111 in full.

24 COMMISSIONER ABER: Yes.

25 VICE-CHAIRMAN EDERER: Is there a

1 second?

2 MS. O'CONNELL: Second.

3 VICE-CHAIRMAN EDERER: All those in  
4 favor?

5 COMMISSIONERS: Aye.

6 VICE-CHAIRMAN EDERER: The motion  
7 carries.

8 Excuse me. The motion was made by Gary  
9 Aber and Ann O'Connell seconded that motion and it did  
10 carry.

11 As far as executive session is concerned,  
12 there is not going to be an executive session today.

13 However, what I would like to do is --  
14 Vicki Weinberg, you're going to leave us. This is your  
15 last meeting.

16 COMMISSIONER WEINBERG: I am, yes. My  
17 term is at an end.

18 VICE-CHAIRMAN EDERER: And Ann also.

19 COMMISSIONER HICKS: Ann also?

20 VICE-CHAIRMAN EDERER: Yes. And Ann also  
21 is going to desert us. So we are losing two of our  
22 Commissioners.

23 Ann, you've been with us how long?

24 MS. O'CONNELL: I think about five years,  
25 five or six years.

1 VICE-CHAIRMAN EDERER: About five years.  
2 And, Vicki, you've been here --

3 COMMISSIONER WEINBERG: Five years.

4 VICE-CHAIRMAN EDERER: So both of you are  
5 approximately five years. We're going to miss you.

6 COMMISSIONER WEINBERG: I'm going to miss  
7 you all.

8 VICE-CHAIRMAN EDERER: And we thank you  
9 very much for your service and all that sort of stuff.  
10 I hope we will be able to invite you back one of these  
11 days for a more formal presentation for your work.

12 MS. O'CONNELL: I have appreciated the  
13 opportunity to serve the people of Texas through the  
14 Comptroller's office and serving as Comptroller Combs'  
15 designee and also as Comptroller Hegar's designee  
16 today.

17 And I'm pleased to introduce Jonathan  
18 Steinberg, who will be taking over my duties, who is  
19 here in the audience today. And I know that the people  
20 of Texas will be in good hands with him representing  
21 the Comptroller's position on this board. So please  
22 welcome him. And thank you for allowing me to serve  
23 this Commission.

24 COMMISSIONER WEINBERG: And I've had --  
25 I've so enjoyed serving on this Commission. As a sixth

1 generation Texan and horse raiser -- I was not into the  
2 racing business, but I have raised and owned horses  
3 throughout my life. This is just something that's been  
4 dear to my heart and it's been great serving with all  
5 of you.

6 I wish nothing but great things for the  
7 racing industry. I would love to see some changes in  
8 this legislative session, of which I'm sure everybody  
9 would in this room. Anyway, but I don't know who my  
10 predecessor will be. It may be awhile before Governor  
11 Abbott gets around to appointing my spot. But it's  
12 been a pleasure to be with all of you. And good luck  
13 to everybody in the future.

14 COMMISSIONER HICKS: I was just going to  
15 say we're going to miss both of them because I've  
16 enjoyed knowing them both. And I know that Ann has  
17 really worked hard on the rules. Yes. And so I don't  
18 know if her predecessor is going to be willing to step  
19 up and do that or not. But thank you so much for all  
20 you did. And Vicki also. We're going to really miss  
21 you.

22 VICE-CHAIRMAN EDERER: Our next  
23 Commission meeting is scheduled for April 14th.

24 We are adjourned.

25 (Proceedings concluded at 11:49 a.m.)

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 24th day of February, 2015.

16

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21

SHERRI SANTMAN FISHER, Texas CSR 2336

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