

1
2
3
4
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VIRGINIA RACING COMMISSION

March 22, 2011

10700 Horseman's Road

New Kent, VA 23124

Commencing at 9:34 a.m.

COMMISSION MEMBERS:

Clinton Miller, Chairman
Stuart Siegel
David Reynolds
J. Sargeant Reynolds, Jr.

COMMISSION STAFF:

David S. Lermond, Jr., Acting Executive Secretary
Kimberly M. Carter, Office Administrator
C. Richard Harden, DVM, Equine Medical Director
Joseph M. Roney, Director of Security & Enforcement

ATTORNEY GENERAL'S OFFICE

Amy K. Dilworth

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I N D E X

	Page	
1.	Approval of the minutes of regular meeting of February 8, 2011	3
2.	Approval of the minutes of special meeting of March 15, 2011	3
3.	Commissioners' Comments	4
4.	Executive Secretary's Report	
a.	Handle Reports	10
b.	RCI Conference	11
5.	Stakeholders' Presentations	
a.	Request from Colonial Downs for 2011 Thoroughbred Race Days	12
i.	Presentation from Colonial Downs	13
ii.	Response from VaHBPA	36
iii.	Response from VTA	59
iv.	Response from General Public	45
b.	Request from Colonial Downs for 2011 Standardbred Race Days	50
i.	Presentation from Colonial Downs	50
ii.	Response from VHHA	-
iii.	Response from General Public	-
6.	Closed meeting of Commission to consider legal matters	47
7.	Resumption of regular meeting	50
8.	Application for a Limited License to conduct wagering on live races at Strawberry Hill - State Fair Service Corporation	67
9.	Public Participation	70
10.	Set date for next regular meeting of Commission April 26, 2011	70
11.	Closed meeting of Commission to consider personnel matters	72
12.	Adjournment	74

1 MR. MILLER: All right. Good morning.

2 I'm the new chairman of the Commission by default.

3 MR. PETRAMALO: Congratulations.

4 MR. SIEGEL: Unanimous vote.

5 MR. MILLER: We're gonna try in the future to
6 actually start on time, so hopefully, when 9:30
7 comes, we will start right at 9:30 and so everybody
8 make it a point to try to be here promptly.

9 I forgot my first duty. Okay. Good morning
10 again. I'm the new chairman of the Commission and
11 this is our -- I'm calling the meeting to order.
12 The first item on the agenda is the approval of the
13 minutes of the regular meeting of February 8th of
14 2011. Do I hear a motion?

15 MR. SIEGEL: So moved.

16 MR. D. REYNOLDS: Second.

17 MR. MILLER: Moved and seconded that the
18 February 8th meeting be approved, all say aye.

19 MR. SIEGEL: Aye.

20 MR. MILLER: Chairman votes aye.

21 Approval of minutes of the special meeting
22 March 15th, 2011; is there a motion?

23 MR. SIEGEL: So move.

24 MR. D. REYNOLDS: Second.

25 MR. MILLER: So moved. All in favor, say aye.

1 MR. SIEGEL: Aye.

2 MR. MILLER: Minutes are approved.

3 Now, at the special meeting of the Commission
4 on March the 15th, I was elected chairman to be
5 called to the absence of a chairman due to Peter
6 Burnett not having been reappointed to the
7 Commission and we're gonna miss Peter and we'll have
8 more to say about him in the future.

9 He did make a great contribution to the
10 Commission and to the Commonwealth for the time that
11 he was on the Commission and I've talked to him
12 since and he is, of course, because of his deep
13 interest in especially the Thoroughbred racing and
14 racing in general, I guess, he'll do anything, help
15 anyone, assist anyone in any efforts they may have
16 in the future and he's willing to serve in any
17 capacity that anyone here might want to call upon
18 him in the future for advice or argument, either one
19 or both.

20 But we have a new commissioner that is
21 replacing Peter on the Commission and
22 our new commissioner is gonna bring a lot of
23 vitality and the enthusiasm that goes with being
24 young.

25 MR. SIEGEL: Brings youth to us as well,

1 right?

2 MR. D. REYNOLDS: I just turned 50, I don't
3 know.

4 MR. MILLER: I'd like to take this opportunity
5 to introduce him to you now and say a few words
6 about his background. The only problem I have with
7 him is he reminds me of the fact that I am getting
8 old, because I was a contemporary of his father many
9 years ago. So I'd introduce to you Sarge Reynolds,
10 Jr. Sarge.

11 MR. S. REYNOLDS: Thank you, Mr. Chairman.
12 It's certainly a pleasure to be appointed and I look
13 forward to serving on the Commission and serving
14 with the commissioners and hopefully getting to know
15 all of the stakeholders, and you know, my goal,
16 obviously, is to work together to move Virginia
17 racing forward, hopefully in a good direction.
18 I know I have some big shoes to fill and I look
19 forward to it.

20 Briefly, I live up in Richmond, Virginia.
21 I'm a real estate developer up there. I think we're
22 still alive up there. You never know these last
23 couple years.

24 I have an 18-year-old daughter, a 13-year-old
25 son and a wife I've been married to for 20 years.

1 I've loved horse racing all my life. My
2 grandfather and uncle owned horses and told me never
3 to get in it, so I guess I'm here now.

4 But then on my mother's side, she grew up in
5 Louisville, Kentucky and I've got horse racing in my
6 blood on both sides. So, you know, we'll see what
7 happens, but I certainly add to the handle every
8 year down here and I look forward to working with
9 you all.

10 Thank you, Mr. Chairman.

11 MR. MILLER: Thank you, Sarge, and it's a
12 pleasure to have you on the Commission and we look
13 forward to working with you in the future.

14 Also, I'd like to take this opportunity to
15 introduce you to someone. We have -- Our executive
16 secretary left us last fall and we've been working
17 on a replacement for him since and put a lot of time
18 and effort into it.

19 We've had oodles of candidates and the
20 candidates were culled down to five finalists and
21 all five finalists were extraordinarily good people
22 with good credentials and good backgrounds in the
23 industry. We were very fortunate to have the kind
24 of candidates for the office that we had this time
25 around.

1 It was a decision that was, as when you do
2 have a lot of good candidates, a tough decision to
3 make to determine who should be the one who secures
4 the position.

5 In this instance, we had one that was just
6 outstanding and the person that we chose is with us
7 here today and I asked him to come to be with us
8 today so I could introduce him to you.

9 He will be taking the position, hopefully, on
10 April the 1st of 2011. He's Bernard -- we call him
11 Bernie -- J. Hettel, former executive director and
12 chief steward of the Kentucky Racing Commission.
13 He's worked with Magma Entertainment Corporation.
14 He's worked at Gulf Stream Park, Association
15 Steward, also racing operations manager. I'd like
16 for him to stand and be recognized and maybe say a
17 few words.

18 MR. HETTEL: Thank you, Mr. Chairman. It's
19 good to be with the Commission. Thank you so much.

20 Just by way of some background, I've been in
21 horse racing since I graduated from college, the
22 University of Louisville, 1972.

23 I started out as a groom and a hot walker and
24 I really thought at that time, I was gonna be a
25 horse trainer, but somehow that just didn't work.

1 As most horse trainers in this room all know, that's
2 a tough go.

3 After that, I became a racing official and
4 worked the Kentucky circuit. Became a steward when
5 I was 29 and I replaced a man named Keen
6 Dangerfield, who was probably the preeminent racing
7 steward in America.

8 I've worked for the Kentucky Racing
9 Commission, as the Chairman said, for a little over
10 20 years; was the executive director and chief
11 steward. Left that position to go work for Frank
12 Stronack [ph] at Magna Entertainment Corporation and
13 I spent five years with him.

14 I'm here now and I'm really looking forward to
15 it. I think this is a magnificent opportunity.
16 Beautiful, beautiful facility.

17 I think there's some work to be done. I think
18 we can do it. Looking forward to working with all
19 of you in this building. So if you need me, I'll
20 hopefully be on staff here by April, but we'll see.
21 Okay. Very good.

22 MR. MILLER: Thank you, Bernie. We'll have --
23 Kimberly Carter will have available in her office
24 contact points for Mr. Hettel for any of the staff
25 or any of the stakeholders or anyone that might want

1 to get in touch with him prior to April 1st. She'll
2 have his e-mail and phone --

3 MR. HETTEL: Look forward to hearing from
4 them.

5 MR. MILLER: -- in case anybody wants to
6 butter him up. April the 1st.

7 MR. HETTEL: April Fool's day, it might be
8 appropriate.

9 MR. MILLER: Keep him apprized of current
10 activities is the way I should have said that.

11 Any other commissioners have any comments
12 under the Commissioner's Comments section of the
13 agenda? Mr. Reynolds?

14 MR. D. REYNOLDS: No report on marketing.

15 MR. MILLER: No report on marketing.

16 From now on, we'll have to be careful when we
17 refer to Commissioner Reynolds. Always use the
18 first name, so we don't get any confusion. Make
19 particular note of that. I wouldn't want anything
20 that Commissioner Dave Reynolds does to reflect on
21 Commissioner Sarge Reynolds.

22 MR. S. REYNOLDS: Dave Reynolds wants to make
23 it clear that he's not related to Sarge Reynolds.

24 MR. MILLER: All right. Do you have anything,
25 Stuart, other than to brag about your basketball

1 team?

2 MR. SIEGEL: No. Go Rams.

3 MR. MILLER: Okay. All right. The
4 secretary's report, Mr. Lermond.

5 MR. LERMOND: Thank you, Mr. Chairman, members
6 of the Commission.

7 On behalf of the staff, we'd like to welcome
8 our new commissioner, Sarge Reynolds and also
9 Mr. Hettel to the Commission. I think we're all
10 looking forward to working with both of you in the
11 future.

12 My report today will be brief, however, I'd
13 like to call your attention to Tab Three in your
14 notebooks.

15 We almost did the first two months of this
16 year compared to the first two months of last year
17 in bricks and mortar wagering. We were only
18 .01 percent down. We missed it by \$836 of breaking
19 even. In fact, I mentioned several months ago that
20 I saw this trend that I thought was beginning to
21 occur and just glad to see it.

22 Also on the next page, if you -- just for a
23 second, I'd like to talk about the ADW wagering.
24 Over all, it's up about -- I'm sorry, down three
25 percent, however, I'd like to call your attention to

1 EZ Horseplay and they are increased almost 70
2 percent over the last two months of last year
3 compared to this year, due to primarily to the EZ
4 Horseplay kiosks that have been operating in bars
5 and restaurants.

6 I think the staff at Colonial has done a great
7 job with that initiative and the staff certainly
8 likes to see numbers such as 70 percent increases.
9 It's nice to see and I applaud them for their
10 efforts.

11 The only other item on my report today is just
12 an FYI that I will be attending the RCI conference
13 that begins tomorrow in New Orleans. A tough job,
14 but I guess someone's gotta do it. I'll be down
15 there to represent the Commission and will be happy
16 to report back to you any significant things that go
17 on at the conference.

18 That concludes my part, Mr. Chairman.

19 MR. MILLER: Thank you very much.

20 I had an opportunity last week to visit one of
21 your EZ Horseplay terminal locations, Irish pub in
22 Newport News and the fellow who runs the restaurant
23 is very proud of it and he's very enthusiastic about
24 it and showed me actually how to lose money on it
25 and he said that it's really -- he has a specific

1 clientele, people that come in and they come in and
2 gather around those terminals and really have a good
3 time and he's very happy with it. So if you
4 replicate that to other locations, we should be in
5 very good shape.

6 All right. Next item on our agenda is the
7 request for Colonial Downs for the 2011 Thoroughbred
8 race days.

9 Just for a little history before we get
10 started, at our February 8th meeting, we made a
11 determination that regarding 40 new race days, no
12 more than 20 percent, to be applicable to go to
13 graded stakes races. I won't go into all that
14 background. It's all a matter of record, so we
15 won't waste time with that.

16 And then we requested that you give us
17 something -- that the stakeholders present in
18 writing their position regarding the determination
19 that the Commission made at their February 8th
20 meeting. Those items have been presented in writing
21 and each commissioner has received them.

22 Oh, by the way, before I go any further, there
23 are only four commissioners present, for the record.
24 Let the record show Mark Brown is absent. All the
25 other present commissioners are here and present and

1 accounted for.

2 So when those responses were made, we
3 anticipated we would set up a special meeting to
4 address your written comments. That didn't come to
5 pass for several reasons and I did check in the
6 interim to make sure that if we made the decision
7 today, that it wouldn't be too late.

8 I was assured that as long as we made a
9 decision today, that it would be on a timely basis,
10 so you could proceed with your preparing a racing
11 schedule and get the book, whatever, prepared.

12 So, Mr. Weinberg, do you want to proceed? Do
13 you have anything additional or anyone have anything
14 additional that you'd like to add or any comments
15 that you'd like to make to supplement the written
16 presentations that were made to the Commission?

17 MR. WEINBERG: Commissioner Miller, I think as
18 an additive, I think we have very little to add.
19 As there are two submissions; one is a joint
20 submission on the Thoroughbred dates and I'm
21 prepared to explain the rationale behind that
22 submission and elaborate a little bit more, but I
23 cannot represent to you that it's much additive as
24 more --

25 MR. MILLER: I didn't mean -- I didn't mean --

1 I shouldn't say additive; supplement, embellish,
2 whatever, however you want to describe it. The
3 normal things that you would do in court if you
4 were, Jim, giving your argument before the judge.

5 MR. WEINBERG: I'm happy to do that and as you
6 are also aware, there was a submission on the
7 Standardbred dates, which I think we have very
8 little to add to.

9 I think we have largely accepted the
10 Commission's order from the February 8th meeting.
11 I think there have been a few refinements on which
12 days of the week we are running, but I would spend
13 most of my time reviewing where I think we are with
14 the Thoroughbred race days, our request and the
15 rationale for why we would like to preserve the
16 stake schedule that is higher than the 20 percent
17 mandated by the Commission and why we think fewer
18 days than 40 days makes sense in the context of
19 where we find ourselves both locally and nationally
20 and let me begin there.

21 As a preliminary matter, I would just like to
22 reiterate Colonial Downs' legal position on how the
23 ratio of stake purses to overnight purses is set.

24 I do think the Commission has a role in that
25 process, but that role is in the approval process of

1 the Thoroughbred agreement that was submitted to the
2 Commission roughly a year ago this time and acted
3 upon by the Commission at that time.

4 And if you recall, at that time, there was
5 somewhat of a debate about the purses for the
6 Virginia Derby and the Turf Cup and the three other
7 graded races, recognizing that that contract set a
8 floor of \$1,450,000 as sort of the minimum devoted
9 to the stakes schedule, not knowing what the purse
10 funds will be over the next three years which that
11 contract covered, it did not set a percentage;
12 albeit, it allowed the HBPA to have approval of
13 anything above 20 percent, but not any lower than
14 the floor of 1,450,000.

15 So that's where we find ourselves, that that
16 contract has been approved. That particular point
17 was hotly negotiated. There were many trade-offs to
18 arrive at the purse structure for the Derby and the
19 Turf Cup in particular and that in the context of
20 setting race dates, the Commission has different
21 authority, but the scope of its authority does not
22 run to undoing a previously approved contact. It
23 runs to setting the number of dates, when those
24 dates are held and certain other conditions of
25 racing, but not with respect to the purse structure

1 and we would just like to reiterate that for the
2 record this morning.

3 There are other objections outlined in a
4 letter that I sent to the Attorney General's office.
5 I don't think those are really pertinent to this
6 morning's discussion, because I think this meeting
7 and the opportunity to be heard on some of the
8 points that were raised during February 8th will
9 cure a lot of the objections raised in that letter,
10 but not with respect to the mix of overnights and
11 stake purses.

12 So from there, I'd like to move on to the
13 substance, unless there are any questions.

14 MR. MILLER: Any questions from the Commission
15 for Mr. Weinberg?

16 NOTE: There is no response.

17 MR. MILLER: All right.

18 MR. WEINBERG: In looking at the stake
19 schedule, one could ask the question why are these
20 two races that we seem to be hung up on, the
21 Virginia Derby and the Colonial Turf Cup, so
22 important?

23 I think as we look around the mid-Atlantic
24 region, the question becomes how does Colonial
25 Downs, how does racing in Virginia distinguish

1 itself from other jurisdictions?

2 Other jurisdictions have the benefit of added
3 money from other forms of gaming, whether it be slot
4 machines or tables. Hence, it will be very
5 difficult for us to compete on purses for Breeders'
6 Fund. Just the magnitude of resources available to
7 other jurisdictions is much greater than ours.

8 But the one thing that we do have that
9 distinguishes us is our turf course and over the
10 years, we believe we have built a strong reputation
11 for being a turf racing center.

12 I think as part of that image and building
13 that program and building the attraction and
14 differential, it is important to have marquee-graded
15 stakes that are a part of that turf racing program.
16 So we have devoted over time and through the
17 contract and various other components heavily in the
18 Virginia Derby and the Turf Cup.

19 As outlined in the presentation, you can see
20 that the Virginia Derby is within a hare's breath of
21 perhaps being upgraded from a Grade 2 to a Grade 1
22 stakes race. We think that's very important in
23 helping to establish this differential as a turf
24 mecca.

25 The alternative would be to reduce that purse

1 by I think we were speaking about at the last
2 meeting 100,000 or 200,000.

3 When you take that 200,000, if it were that,
4 and spread it over 350 overnight races, we feel the
5 benefit attributed to that is much less than the
6 risk that we were taking of perhaps not getting that
7 Graded 1 stake and so we really feel very strongly
8 that devoting the resources to that one race,
9 recognizing there is strong disagreement of whether
10 you're overpaying for it or not, is worth taking
11 that risk to get that Graded 1 upgrade.

12 With respect to the Turf Cup, I think the
13 discussion that began at the February 8th meeting
14 continued with the stakeholders and we looked at the
15 value of the Turf Cup and the purse being paid and
16 came to the conclusion that -- Let me back up for
17 one moment.

18 The Turf Cup was part of a four-race series
19 called the Grand Slam of Grass, with the idea that
20 if one horse could win four races, including being
21 the Derby, the Turf Cup, the Secretariat and the
22 Breeders' Cup race, that there would be a \$5 million
23 added bonus.

24 When that program was first announced, it
25 attracted a lot of media attention. Some thought it

1 would prove to be too difficult for a two-year-old
2 to do that --

3 MS. RICHARDS: Three-year-old.

4 MR. WEINBERG: Pardon?

5 MS. RICHARDS: Three-year-old.

6 MR. WEINBERG: Three-year-old. And I think
7 that proved to be the case, that over time, the
8 attraction, the Grand Slam of Grass, became too big
9 of a challenge.

10 So there is an opportunity to reinvigorate the
11 Turf Cup by opening it up to the older horses with
12 the idea that a purse the size that we are speaking
13 about would be able to attract past winners of maybe
14 the Derby and the Turf Cup and other courses to
15 create a very competitive and very different turf
16 race for three-year-olds and up. That is the
17 direction, that based upon the stakeholders'
18 discussion following the last meeting, that we are
19 headed.

20 We recognize that will void the graded rating
21 of this race, but we are confident that the type of
22 horses we think we can attract, that we would get
23 that grade back very quickly and that that would
24 create the type of excitement in the racing industry
25 on the turf race that we hoped to achieve and that

1 was the original intent of the Grand Slam of Grass.

2 The next point I'd like to make is how
3 important these marquee days of racing are just to
4 the general program.

5 As we looked at the consequences of these
6 graded races on a day of racing at Colonial Downs,
7 we saw that it lifts the entire card for that day.

8 In the submission, I think you saw that the
9 average Saturday handle is roughly \$781,000. On a
10 Derby or Turf Cup day, it's closer to \$2.6 million,
11 so you know, three-and-a-half times what is a
12 typical day.

13 An average stake, here a \$50,000 stake, and if
14 you recall, there are about 13 of those during the
15 course of a meeting. On a typical Saturday, that
16 stake handle is \$79,000. On one of the marquee
17 days, it's \$209,000. So again, a two-and-a-half
18 time increase.

19 Even looking at a Maiden Special day for
20 three-year-olds and up on a typical day is about
21 \$94,000. On the day of the Virginia Derby, that
22 same type of race yielded \$158,000.

23 So that once we attract wagers from across the
24 country and locally to a quality race, they hang
25 around and they continue to bet on the card.

1 We think that's an important fact and something that
2 we would like to carry forward through the whole
3 race program.

4 The next point I'd just like to highlight was
5 again highlighted in joint submission and when we
6 talked about being close to 30 percent of our purses
7 devoted to stake races, where did that put us with
8 other tracks.

9 You will see in the chart in the submission
10 there are 14 other tracks identified on Page Four of
11 the joint submission with higher stake percentages
12 at their meets and so we feel like at 30 percent,
13 yes, we're in the high part of the industry, but
14 there are others as high or higher than us.

15 The next point I'd like to cover is what is
16 the trend? As we talked about the February 8th
17 meeting, undeniably, there is a trend at other
18 tracks to cut the amount of purses devoted to
19 stakes.

20 As noted at the February 8th meeting, what I'd
21 like to reiterate here is Colonial Downs has been
22 cutting the funds devoted to its stake races.

23 The Turf Cup and the Derby began at one
24 \$1 million when they were first conceived and are
25 now at 600,000 and 500,000 respectively. So the

1 cutting that has occurred at other tracks, I think
2 Colonial Downs is out in front of that trend by a
3 couple years ahead of that trend.

4 Next, I'd like to note the joint stakeholders
5 did spend a considerable amount of time considering
6 alternatives. What would alternatives schedules
7 look like if we did abide by the Commission's order
8 of cutting to 20 percent?

9 We came to the same conclusion, much like the
10 Commission staff in its staff report, which quoting
11 from the staff report, if we use a revised
12 projection of 6.4 million of available purse money
13 for 2011, only 1,280,000 would be available for
14 stake races.

15 Based on the attached schedule from 2010,
16 which are, just to refresh your memory, the five
17 graded races that have purses of 1,450,000 and then
18 13 other \$50,000 stake races, six of which have some
19 Virginia-bred component to them.

20 So the report goes on. There would not be
21 even enough money to run the five graded stakes at
22 their current purse levels and 13 of the 18 total
23 stake races would have to be eliminated; six of
24 which are for Virginia-bred horses.

25 As we looked at reallocating those funds to

1 the overnights, we thought the adverse consequences
2 to the stake schedule were much greater than the
3 benefits to the overnight schedule.

4 As a final point, just in dealing with the mix
5 of overnights to stake races, we would reiterate
6 that we really believe the Turf Cup and the Derby
7 are the marquee events for the Thoroughbred meet.

8 They attract national attention, they attract
9 very high caliber of horses, and as we have seen,
10 the wagering on those races spills over to other
11 races on the cards for those days, and hopefully,
12 we'll have some spillover effect on other days that
13 are not as high marquee days for the meet.

14 I am happy to pause here, but I was gonna turn
15 my attention to talking about the number of dates.

16 MR. MILLER: Anyone have any questions so far
17 for Mr. Weinberg?

18 MR. SIEGEL: Not yet.

19 MR. MILLER: Okay. Continue.

20 MR. WEINBERG: When we looked at the number of
21 dates, the 33 versus 40, we, too, as a joint group,
22 were focused on how we improve overnight purses from
23 last year and we really looked at three scenarios.

24 One is 33 days with the current stakes
25 program, which would provide for average daily

1 purses of 194,000 versus 169,000 last year.

2 On the overnights, would increase overnights
3 to 15,278, which is about a \$2,400 per race.
4 Average overnight -- would increase
5 average overnights \$2,400 on average from last year.

6 The second alternative we looked at was the 40
7 days with the reduced-stakes program.

8 Average daily purses would decline from 169
9 last year to 160 this year. Although average
10 overnight purses would increase to 14,000 for about
11 a \$1,900 increase.

12 Finally, we looked at 40 days of racing with
13 the current stakes program, preserving the stakes
14 for the reasons we just discussed.

15 Again, daily average purses would be down from
16 last year and daily overnight purses would be down
17 as well approximately \$344.

18 So when we looked at really Scenarios One and
19 Two, we thought we, for the reasons we just
20 discussed, wanted to preserve the stake program and
21 could accomplish increasing overnights by \$2,400 as
22 well and we continued to believe that that approach
23 was the best approach in balancing all of the
24 competing interests that are part of Virginia
25 racing.

1 And by that, I mean we've consistently during
2 race days talked about opportunities for the
3 horsemen and more days provide more opportunities.

4 At the same time, making sure that the races
5 that we do provide are competitive, in fact, in
6 wagering and handle, which tends to be the higher
7 the purse funds, the better quality of horses you
8 get, the fuller fields you get, the fuller field
9 yields more competitive wagering, more competitive
10 wagering yields higher purse funds and a very
11 positive feedback in that dynamic.

12 We recognize that there are competing
13 interests and that the horsemen would like more
14 opportunities to run, but we continue to think that
15 that balance is struck around 33 days, where we
16 preserve our stake program and we raise overnights
17 by \$2,400 from last year.

18 We did also look at the metric of average
19 purse per day. I know at the February 8th meeting,
20 we spent some time differentiating that from
21 overnights, but nonetheless, it is a metric that
22 many in the industry use.

23 The best analogy I could come up with is it's
24 much like batting averages in baseball. Batting
25 averages don't take into account a discerning hitter

1 who is able to recognize balls from strikes and it's
2 usually a lot of base on balls.

3 It just doesn't factor into batting average;
4 nonetheless, people tend to look at batting average
5 in measuring the strength of a particular batter in
6 the same way people look at average purses per day
7 in measuring the vitality and strength of a racing
8 program at the race track.

9 In your submission, I think you will note that
10 \$194,000 a day puts Colonial Downs in the middle of
11 the pack for mid-Atlantic tracks. We are sandwiched
12 between Preque Isle at 196 and Charlestown at 182,
13 but we remain generally competitive with our peers
14 in the area.

15 We also looked at the impact that race days
16 has on field size and continue to believe that field
17 size is very important and that again, the higher
18 the overnights, the larger the field size will be
19 and that to get there, we need to run fewer days.

20 And indeed, if one looks at Ellis Park as an
21 example of whether that approach has had some
22 success, as you will see in the joint submission
23 over the last four years, they've raised average
24 starters per race from an average of 7.7 to close to
25 9.6; almost two horses per race increase by reducing

1 the number of days, and in that case, the number of
2 days per week of racing from five to three. Here,
3 we're suggesting from five to four.

4 The next point I'd like to make is that this
5 shorter meet is consistent with national trends.
6 I know we spoke about trends at the February 8th
7 meeting, but we really did not focus on national
8 trends as far as the number of race days.

9 Monmouth Park achieved a lot of notoriety and
10 attention last summer when it dramatically reduced
11 its number of days and it realized greater handle,
12 attendance and horses per race. It, too, increased
13 by an average of two horses per race by
14 substantially reducing its race days. This trend is
15 going on in other parts of the country as well.

16 Many of you may be familiar with the dynamic
17 in Texas, which at one point, one Thoroughbred track
18 was going to surrender its dates and its purse funds
19 to another track in hopes of running fewer days
20 racing purses and being more competitive. That plan
21 ultimately was not implemented, but I believe Texas
22 has substantially reduced its Thoroughbred race days
23 for 2011 as well.

24 There are a few things that we touched upon at
25 the February 8th meeting that we would like to

1 elaborate on and that is efforts to improve
2 attendance, because we do think that that is a
3 critical component as well as to a successful meet,
4 and so we wanted to touch upon a few of the things
5 that we would be doing differently this year than
6 what we have done in the past.

7 MR. MILLER: All right.

8 MR. WEINBERG: Ian will talk about the infield
9 experience.

10 MR. STEWART: Yeah. Basically, we got three
11 ideas that we're gonna implement this year that are
12 building on some stuff we've done in the past.

13 We think it's critical to increase attendance
14 at the track, because ultimately, horse racing can't
15 survive if people aren't interested in it, and quite
16 honestly, that's one of the reasons why a larger
17 field size is more important; because it's a more
18 interesting product for people to watch. It's a lot
19 more interesting to have 12 horses run out there
20 than it is to have four, so that's one of the
21 reasons why we believe it's important to drive up
22 the purse per race and increase the field size.

23 But at any rate, first thing we're gonna do is
24 we're gonna move the post time on Saturdays from
25 one o'clock to five o'clock. In my view, over the

1 years of watching this, there's two big things that
2 are inhibiting our attendance out there, just basic.

3 One is it's hot. In the middle of July at one
4 o'clock, it is warm out there. It'll be cooler
5 after five o'clock. I've watched people literally
6 melt on that tarmac out there at one o'clock in the
7 afternoon.

8 The second thing is I've always been convinced
9 that it seems like every Saturday, we have a traffic
10 issue out on Route 64. It's usually right before
11 post time, because people are trying to go to the
12 beach.

13 I think the traffic is much more manageable at
14 five o'clock. I think we've got a whole segment of
15 people who have just basically given up on coming
16 out here because they don't wanna deal with either
17 the traffic or the heat. So those things seem
18 simple, but I think they'll make a difference.

19 I'm really excited to see what we can do on
20 Virginia Derby day with a five o'clock start time.

21 Second thing that we're gonna do is we're
22 gonna try to get people closer to the action. The
23 good news is we run 85 percent of our races on the
24 grass. The bad news is it's 120 feet from the race
25 track, from the grandstand. So what we're gonna do

1 is we're gonna try to give people an opportunity to
2 come into the infield.

3 I'll let our vice president of operations,
4 Jeanna Bouzek, talk about that.

5 MS. BOUZEK: Good morning. We're gonna try to
6 get the customers to the infield. It's something
7 we've looked in to every year, and you know, with
8 all due respect to the turf, we don't, you know,
9 wanna do anything to harm that, so we have found a
10 covering that we can roll out that protects the
11 turf.

12 We would roll it out every two races, let the
13 customers go into the infield, roll it back up.
14 We've done the test out there. You can see the
15 roll. If you look out there, it's in the gap.
16 We've had the guys roll it out and roll it back in.
17 It doesn't take any time, couple minutes. So we
18 would -- we roll the cushion out, we provide the new
19 viewing experience for the customer.

20 Other than Strawberry Hill, nobody's ever
21 watched a race from in there and it's nice to watch
22 the race from inside. It's pretty exciting.

23 We're gonna have to modify the rail to create
24 a gap so that the customers can get over there
25 safely, so that's something we're working on right

1 now and we'd install a platform with a tent so we
2 can provide food, beverage, wagering, restrooms,
3 that type of thing. We just think it'll be a lot of
4 fun for the customers to go over there and see the
5 races.

6 MR. SIEGEL: Are you gonna market that as
7 well?

8 MS. BOUZEK: Absolutely.

9 MR. STEWART: We're still working on a name
10 for it.

11 MR. MILLER: Well, I noticed at Pimlico, they
12 opened up the infield and the big attraction, there
13 are beer kegs, kegs of beer and you say go to the
14 infield to watch the race.

15 The ultimate aim should be probably to just
16 get those people to want to go to the infield,
17 period, because they say at Pimlico, very few of the
18 people watch the race by the time the race runs.
19 Talking about the Preakness.

20 MR. STEWART: That would considerably improve
21 our short-term financial gain.

22 MR. MILLER: Well.

23 MR. D. REYNOLDS: Are you directed at any
24 particular part of the market?

25 MR. STEWART: I think that what we'll do is

1 we'll sell it as an additional add-on to people that
2 come in.

3 In my opinion, you know, when somebody comes
4 to the track, the track's a four-hour experience,
5 which is probably about two hours longer than most
6 people are used to doing something.

7 If you go to a movie, it's a couple hours.
8 You go to a ballgame, it's a couple hours. Four
9 hours is a long time and there's a lot of down time
10 going to the races.

11 So I think virtually anybody would be
12 interested in doing something a little different,
13 you know, walk out to the infield and sit for a
14 couple races. It's a very different experience.

15 As Jeanna mentioned, you might notice out
16 there, there's a little platform on top of the tote
17 board that we put in years ago for Strawberry Hill
18 and we're gonna expand that. It's probably the best
19 place to watch a race in the whole facility.

20 MR. SIEGEL: So people would go out there for
21 a race or two and then come back in? They wouldn't
22 be admitted there at the beginning of the races and
23 spend the day there?

24 MR. STEWART: Well, they could, if they wanted
25 to.

1 MR. SIEGEL: Or if you decided it worked.

2 MR. STEWART: Yeah. I mean if people wanted
3 to, they could stay there. The concept though is I
4 think we want people to -- we don't want them to be
5 marooned out there, if you will. So the key to it
6 is having a carpet that you can roll back and forth
7 that people can access and that's easy for us to
8 maneuver so it doesn't interfere with the flow of
9 the racing.

10 MR. MILLER: And you would unfurl it several
11 times during the day so people wouldn't be marooned?
12 I mean they could just wait for the time when it
13 goes down again.

14 MS. BOUZEK: Correct.

15 MR. SIEGEL: And carry the keg back and forth.

16 MR. MILLER: We laugh, but you know, that's a
17 college fraternity aspect to going to the race track
18 and if you can create it, create some buzz about it,
19 you'll probably be pleasantly surprised.

20 MR. STEWART: That's a major initiative that
21 we're using with Virginia Derby day; the Hoot On The
22 Hill. We did that last year, which is a BYOB area
23 over there. We thought it was real successful and
24 we think that we could substantially increase the
25 numbers, especially at five o'clock, so it's a nice

1 attraction.

2 MR. MILLER: You might even have a -- I hate
3 to belabor the point, but you might even have a
4 Greek day, you know. Try to get all the various
5 colleges and universities, fraternities interested
6 in some kind of, you know, create some kind of
7 little contest --

8 MR. SIEGEL: Or an event.

9 MR. MILLER: -- so that these people can come
10 out and they can compete against each other in some
11 kind of gaming thing that you'd have. I'm not
12 talking about gambling --

13 MR. STEWART: Right.

14 MR. MILLER: -- but some kind of competition.
15 There's nothing that brings out the vitality of
16 youth more than competition, right, Sarge?

17 MR. S. REYNOLDS: That's right.

18 MR. MILLER: Well, that sounds interesting.

19 MR. STEWART: Speaking of youth, we have a
20 special focus this year, just like everybody on the
21 social media. We're working on some initiatives
22 there that I'll be happy to report on at the next
23 meeting, but they're under way.

24 I think that's an area where it's very
25 economical to try to promote to somebody and you can

1 target the market a little bit. I think it's pretty
2 exciting. I think it's a lot more effective than
3 just putting up television advertisements and hoping
4 somebody watches it. That's what we're working on.

5 MR. MILLER: Okay.

6 MR. STEWART: I guess the other comment I
7 guess I would like to make is that in general, the
8 critical thing is to create fan interest, to have an
9 interesting product and it's important that, I
10 think, that we focus the meet on what is going to
11 attract the greatest number of people. What's going
12 to be the most attractive product, because
13 ultimately, I think that will filter down to the
14 benefit of everybody involved.

15 The idea of just seeing how many the maximum
16 number of days that you can run, stake the purse
17 money and spread it as thinly as possible and still
18 put on a semi-credible product, I think is an idea
19 that its day has kind of come and gone. That's been
20 done in a number of states and the results are
21 self-evident and there's nothing particularly unique
22 about Virginia that would lead you to believe that
23 that model would succeed here when it hasn't
24 succeeded anywhere else.

25 So I think it's critical that we put on our

1 best possible product. In order to do that, we need
2 to have -- drive the average purse per day up. I
3 think that's a model that's worked in other places
4 and I think it could work here.

5 MR. MILLER: Thank you, Ian.

6 Anything further, Mr. Weinberg?

7 MR. WEINBERG: No. Just would like to
8 conclude our remarks, just making clear what our
9 request to the Commission is.

10 Our request is that the Commission reconsider
11 its order, award 33 days of Thoroughbred racing
12 commencing June 8th, 2011 to July 31st, 2011, with
13 racing on Wednesday, Thursday, Saturday and Sunday
14 with the exception of Monday, July 4th and on those
15 dates, it would be a five p.m. post time on all days
16 except Sunday, which would remain at one p.m.

17 With respect to Monday, July 4th, that would
18 also be a one p.m. post time. Just to be complete,
19 except on Sunday, July 3rd, which would be a five
20 p.m. post time.

21 MR. MILLER: Thank. Mr. Petramalo, do you
22 have anything to add?

23 MR. PETRAMALO: Just quickly.

24 I need to introduce myself. My name is Frank
25 Petramalo. I'm the executive director of the

1 Virginia HBPA and with me is Robin Richards,
2 president of the Virginia HBPA.

3 Two things. With regard to the stakes issue
4 that Jim talked about and the days issue. With
5 regard to the stakes issue, the mix between
6 overnights and stakes is always a point of
7 contention between horsemen and the race track.

8 For at least the last nine years, we have had
9 in our contract the provision that you see here,
10 which says 20 percent, unless the horsemen agree
11 otherwise. (Indicating)

12 And in those nine years, we have never, ever
13 had 20 percent. We've always been in excess of
14 20 percent and it's because of the give and take in
15 the bargaining between us where we've sought to have
16 the expansion of the offtrack betting locations to
17 generate more handle.

18 The race track is sought to promote its turf
19 festival. Those were the two issues that go back to
20 2002. So every year, we've voluntarily agreed to go
21 above 20 percent.

22 For the first five years of our expansion plan
23 from 2002 through 2007, everything was hunkey-dorey
24 because the race track was expanding, handle was
25 expanding, we were all doing quite well. Then the

1 economy started to deteriorate in 2008 and the
2 handle started to drop and we did negotiate cuts to
3 some of the stakes purses.

4 In 2007, they were \$1 million apiece for the
5 two signature races and we chopped them down over
6 the years to where they are now.

7 The whole stakes issue is not something that
8 is taken lightly. It's a point of serious
9 negotiation between us every two or three years when
10 our contract is up.

11 Now, with regard to the number of days, our
12 five-year program similarly proceeded on an upward
13 trend until 2008.

14 When we started out in 2002, we were running
15 26 days. In 2008, we were up to 45 days, but again
16 because the economy fell apart, we started cutting
17 back on days.

18 What you see before you now, the proposal to
19 cut back from 40 days to 33 days, believe it or not,
20 is not an initiative that came from the race track.
21 That came from the horsemen.

22 Usually, the race tracks across the country
23 like to run fewer days because the overhead is
24 tremendous. But this year, it was our request to
25 cut back to 33 days because we needed to boost up

1 the purses. We were just going too far below a
2 reasonable purse average to attract people from
3 Florida or Kentucky or wherever to ship here and
4 race, so it was really our initiative.

5 But that said, we fully support the position
6 of Jim and Ian here. We think this year, it's
7 necessary to retrench somewhat.

8 We're hoping that the racing economy
9 stabilizes. We're planning for a slight decrease,
10 but we're hoping that it stabilizes, and you know,
11 if in the future things change, particularly with
12 the new initiatives like the kiosks and the EZ
13 Horseplay platform, things start picking up, of
14 course we're gonna look to run more days, et cetera,
15 but we've got to recognize what's going on. We just
16 can't be blind to the economics.

17 MR. MILLER: Thank you, Frank.

18 Do you have -- Does anyone have any questions
19 for Mr. Petramalo?

20 NOTE: There is no response.

21 MR. MILLER: I would ask both of you, if you
22 would, if you would comment.

23 Mr. Lermond suggested in his staff report a
24 tweak of your request, to the extent that you might
25 consider adding two Friday night races as an

1 incentive to better present the product, increase
2 crowds, attract a different clientele perhaps.

3 I would just like for each of you, if you
4 could or would, to comment on Mr. Lermond's
5 proposal.

6 MR. STEWART: Well, I guess as to the number
7 of days, we've contractually agreed to support the
8 horsemen's request, so I almost have to defer to
9 Frank a little bit on that.

10 As the issue of Friday nights, Friday night is
11 kind of a -- It's a perplexing one.

12 MR. MILLER: It always has been. Friday night
13 was date night. I could never get a date.

14 MR. STEWART: Well, I can't comment to that
15 too much.

16 MR. MILLER: Very perplexed.

17 MR. STEWART: From my standpoint though, the
18 perplexing comes from -- I always figured Friday
19 night would be a great night to run out here and for
20 years, I was very supportive of that and we tried a
21 number of promotions. We ran poker. I mean Darryl
22 could run through the whole list.

23 At the end of the day, 1,200 people come.
24 We'd stand on our heads and twist ourselves into a
25 giant pretzel and 1,200 people come.

1 In the big scheme of things, I think we'd be
2 much better off devoting that money to running -- to
3 building up the purses on the other days to the 33
4 days. I think ultimately, we'll do a lot better.

5 We've had to work very hard and really don't
6 have a whole lot to show for it and I can't explain
7 to you why and for years, I believed and invested
8 money in it and it just never quite happened.

9 I suspect one of the reasons is we're not
10 really very close to the population center. At five
11 o'clock on Friday afternoon, to want to get on Route
12 64 and drive 30 miles out here after you've worked
13 all day, maybe it's not -- maybe it's just not that
14 attractive.

15 All I can tell you is in the years that we've
16 done it, we've never had a whole lot to show for it.

17 MR. SIEGEL: Do you think it's attractive
18 other days to come at five o'clock?

19 MR. STEWART: Well, probably, on Saturday is a
20 whole different story.

21 The week days on the Wednesdays, Thursdays, I
22 think there's two things that happen. One, I think
23 it's a good corporate night. There's a lot of
24 people -- we do a pretty good sweep business with
25 the corporations and I think people are willing to

1 go to a midweek event. I think people are less
2 excited about going to a corporate event on Friday
3 night.

4 So and the other thing, too, is the midweek
5 does very well for us in the simulcast market, so
6 the attendance is almost a little bit secondary.
7 Friday night is not a big simulcast night though.

8 MR. PETRAMALO: We took a look at this last
9 year. The attendance on Friday compared to
10 Wednesday is so much better. Wednesday, you get 600
11 or 800 people, you're doing okay. Friday, 1,200
12 people is almost twice what you had on Wednesday.

13 But if you look at our signal sales on
14 Wednesday versus Friday, it's about three times as
15 great on Wednesday, principally, because we have
16 very little competition when we're sending out our
17 signal on late Wednesday afternoon, so it's a
18 balancing.

19 Personally, I think perhaps not this year, but
20 going into the future, remember, we're still talking
21 with the harness folks and Colonial about some type
22 of combined meet, as well as maybe lighting the turf
23 course. I think we may be on to something if we go
24 to night racing, night Thoroughbred racing,
25 particularly on the grass course.

1 If we had a 6:30 or a seven o'clock post on a
2 Friday night, that might be attractive to bring
3 people out there. And even on a Wednesday or a
4 Thursday night, because I think, one, you have very
5 little competition, and two, you've eliminated the
6 traffic and the heat problem and you create a really
7 unique product, because what we have to sell is
8 horses racing on the grass. You see very little of
9 that and certainly almost none at night.

10 But this year, at least from the horsemen's
11 standpoint, we're happy to make the experiment to
12 see what we can do with Wednesday, Thursday,
13 Saturday, Sunday.

14 MR. SIEGEL: Well, I have no evidence to
15 support this at all, but seems to me that night
16 racing would be attractive, regardless of whether
17 it's a weekend or not.

18 People -- Sometimes, you have a four o'clock
19 post time on a Wednesday. It's hard for people to
20 leave work and generally, you appeal to retirees who
21 may not bet as much as the other demographics, I
22 don't know, but I mean I think that not only on
23 Friday night, but that might benefit you. You have
24 a capital expenditure to light that race track
25 that's probably not slight.

1 MR. STEWART: That's correct.

2 MR. MILLER: Anything else?

3 MR. PETRAMALO: No. That's it.

4 MR. MILLER: Any other comments from any
5 commissioners?

6 MR. SIEGEL: I would just say -- make a couple
7 of comments.

8 However you may interpret the Commission's
9 authority, it's important, I think, to understand
10 the intent of the commissioners in our February
11 meeting and while we may well approve the race days
12 as well as the price structure, I think the message
13 being sent here is a sincere one.

14 The overnights are important, as are those
15 horsemen who come here and train and race for the
16 entire meet and I think that it's important to focus
17 on those folks and to make sure that going forward,
18 we do everything we can to better support them
19 financially and otherwise.

20 And so I think that's the message I think that
21 we need to be sending here, because I think that's
22 part of the role of all of us, whether it be the
23 race track, the commissioners or the horsemen and I
24 think we need to put more focus there.

25 MR. MILLER: All right. Anyone else? Anyone

1 have any comment?

2 MR. STAPLES: Yes, sir. I'm glad to see
3 everybody here today. My name's James Staples. I'm
4 on with Fair Weather Productions. It's a marketing
5 promotional company for horse racing, plus, we're
6 owners of some Thoroughbreds.

7 The way we see things, since '06, about
8 80 percent of America really doesn't know anything
9 about Thoroughbred racing, probably the trotters,
10 either, but the name of the game in real estate is
11 location, location, location.

12 In this game, we need exposure, exposure,
13 exposure and that's what we're not getting. We're
14 not getting street exposure. I mean it's all over
15 the country. It's not just, you know, in Virginia
16 and we just believe that's one of the things people
17 need to look at. It's an expense, exposure.

18 Thank you so much.

19 MR. MILLER: Thank you, sir. Anyone else have
20 any comments?

21 NOTE: There is no response.

22 MR. MILLER: Dave, you have any comments you
23 want to make?

24 MR. LERMOND: I guess the one comment I would
25 make about the handle on Fridays, as Frank points

1 out, it's not as high on the out-of-state level, but
2 the track and the horsemen make about a sixth of
3 what they do off the live racing when the money is
4 bet from out-of-state. That's because there's only
5 a three percent host, as opposed to the full take
6 out that you would get on tracks. I don't know if
7 you can make that fair comparison.

8 The other, I think one of the reasons I put
9 the two Fridays at the end of the meet was a lot of
10 times, the horsemen, as the meet gets ready to end,
11 they're looking for one more race for their horse to
12 try to get a little more money before they go onto
13 the next stop on their tour and I thought that maybe
14 the two extra days at the end of the meet would give
15 the horsemen the benefit to maybe get an extra race
16 before they go and also give Colonial Downs more
17 time to market those by putting them at the end.

18 MR. SIEGEL: I'm not sure I'm clear as to
19 whether or not the horsemen agree that -- with
20 Colonial Downs as to the position on those extra two
21 days.

22 MR. PETRAMALO: Yes. We -- Our agreement with
23 Colonial is to request 33 days.

24 MR. SIEGEL: Okay.

25 MR. D. REYNOLDS: Mr. Chairman, can I comment?

1 MR. MILLER: Yes, sir. Dave Reynolds.

2 MR. D. REYNOLDS: My recollection is that we
3 passed this the last time, on February 8th, to get
4 some response to those voting and it wasn't an iron
5 fist down, saying do this or do that.

6 And after looking at all the material and
7 listening to you this morning, I want to support
8 what they have proposed, the joint proposal for
9 days, and part of that is because we've had
10 discussions about taking the rest of this year and
11 studying what it is we need to do on a grand scale,
12 not incremental, smaller issues, but the total thing
13 and we've learned that the Jockey Club has got a big
14 study going on this year, with some results coming
15 out of that in August, September timeframe. I think
16 that's right.

17 Based on that, if we do that study, if that's
18 in our minds, I'm in favor of what they have
19 proposed about coming up.

20 MR. MILLER: Thank you.

21 Before we dispose of the issues though, I want
22 to go into a brief closed session regarding the
23 legal portion beyond the substance for race days and
24 the purse.

25 So in accordance with provisions of Section

1 2.2-3711(A)(7) of the Code of Virginia, I move that
2 the Commission go into closed meeting for the
3 purpose of consultation with legal counsel employed
4 or retained by the Commission regarding specific
5 legal matters, requiring the provision of legal
6 advice by such counsel. Can I have a second?

7 MR. SIEGEL: Yes. Second.

8 MR. MILLER: Moved and seconded. Sarge
9 Reynolds, do you vote aye or nay?

10 MR. S. REYNOLDS: I vote aye.

11 MR. MILLER: Dave Reynolds?

12 MR. D. REYNOLDS: Aye.

13 MR. MILLER: Mr. Siegel?

14 MR. SIEGEL: Aye.

15 MR. MILLER: Mr. Siegel votes aye.

16 We'll go into closed session. We'll keep it
17 as brief as possible, because I know we have other
18 things to take care of.

19 When we come back, we'll dispose of the legal
20 issues and substance in a pretty quick dispatch,
21 let's say.

22 NOTE: A brief recess is observed at
23 10:41 a.m.; thereafter, the hearing reconvenes
24 at 11:05 a.m. as follows:

25 MR. MILLER: I move the adoption of the

1 following resolution:

2 WHEREAS, the Virginia Racing Commission has
3 convened a closed meeting on this date pursuant to
4 an affirmative recorded vote and in accordance with
5 the provisions of The Virginia Freedom of
6 Information Act;

7 And WHEREAS, Section 2.2-3712 of the Code of
8 Virginia requires a certification by this Commission
9 that such closed meeting was conducted in conformity
10 with Virginia law;

11 NOW, THEREFORE, BE IT RESOLVED, that the
12 Virginia Racing Commission certifies that, to the
13 best of each member's knowledge, (i) only public
14 business matters lawfully exempted from open meeting
15 requirements under the Virginia Freedom of
16 Information Act and (ii) only such public business
17 matters as were identified in the motion convening
18 the closed meeting were heard, discussed or
19 considered by the Commission in the closed meeting.

20 Mr. Siegel?

21 MR. SIEGEL: Aye.

22 MR. MILLER: Mr. Dave Reynolds?

23 MR. D. REYNOLDS: Aye.

24 MR. MILLER: Sarge Reynolds?

25 MR. S. REYNOLDS: Aye.

1 MR. MILLER: Chairman votes aye.

2 Now, getting back to the agenda, we were
3 dealing with the request of Colonial Downs for 2011
4 Thoroughbred race days.

5 Did we cover the Standard -- Is there
6 anything, any particular presentation you want to
7 make regarding the Standardbred race days?

8 MR. WEINBERG: The only presentation I would
9 make would just be clarifying that I think we're all
10 in agreement as to the 30 days. I believe we're all
11 in agreement that those days would be over seven
12 weeks, and that's Saturday, September 17th and
13 concluding Saturday, November 5th. Normal schedule
14 will be four days a week on Saturday, Sunday,
15 Wednesday and Thursday, except one additional day on
16 Friday, November 4th.

17 MR. MILLER: All right.

18 MR. LERMOND: Post times.

19 MR. WEINBERG: Post time will be one p.m. and
20 lower fourth grandstand will be open on all race
21 days.

22 MR. MILLER: When we get ready for that
23 motion, Dave, do you have all that specific --

24 MR. LERMOND: That's exactly what the
25 recommendation of the staff report is, so if you

1 want to make a motion --

2 MR. MILLER: When I get to that point of race
3 days, I'll have you read the motion so we'll make
4 sure we get all those post times, et cetera, for the
5 record.

6 So there's nothing further on the
7 Standardbred?

8 MR. WEINBERG: Other than to reiterate I think
9 a point I made earlier, that we would welcome and
10 urge the Commission to help us participate in
11 looking at the long-range planning for Standardbred
12 racing, but this year is a stop-gap, but we need to
13 take a long-term look.

14 MR. MILLER: All right. Thank you.

15 Now, after consultation with counsel relating
16 to the filings by the stakeholders, the Commission
17 finds that it did not interfere with the horsemen's
18 agreement, the contract.

19 The Commission is authorized to set the ratio
20 of stakes purses as to overnight purses and the
21 Commission is authorized to set the number of race
22 days in its discretion.

23 That being said, the Commission also, due to
24 the noted trend in racing in this country and due to
25 the economic conditions and all the things that have

1 been cited by the stakeholders and the common
2 knowledge that we can pick up by reading newspapers
3 and articles and so forth about the state of racing
4 in this country, the Commission does recognize that
5 there has to be some modifications in our approach
6 to race days.

7 As Mr. Weinberg pointed out, as Mr. Petramalo
8 pointed out, we've gone from various race days; 46
9 days, 45 days, 40 days. They've all been tried and
10 different approaches have been taken to try to
11 address the problems that we face in the racing
12 industry to try to make it a viable product, to make
13 sure that not only the horsemen are protected, make
14 sure that the citizens of Virginia are represented
15 appropriately in the approach that we take to having
16 this product available in Virginia and to make sure
17 that in the private enterprise system that an
18 operator of a track can meet their obligations.

19 Also that we would, the Commission, for this
20 year, will approve the 33-day race schedule as
21 proposed by the stakeholders and we note that one of
22 the major --

23 Well, a prominent reason is that it is
24 unusual, at least since I've been on the Commission,
25 that we've had such agreement between the horsemen

1 and the track and that's not to be taken lightly.

2 I'm sure a great deal of thought did go into
3 how you reached the determination of having those
4 race days set up for this year.

5 The Commission will also support the stakes
6 overnight ratio as you proposed. We'll do it
7 properly here in a minute, because we'll have the
8 motion read by the deputy executive secretary before
9 we vote on it.

10 I do want to make a couple other comments.
11 Number one, the Commission was a bit concerned about
12 the fact that we have a three-year horsemen's
13 agreement in front of us that we've been dealing
14 with, a horsemen's agreement as to duration of three
15 years.

16 It was probably not the most prudent thing to
17 do when the Commission approved an agreement for
18 that duration and in fact, this Commission didn't
19 approve the contract horsemen's agreement for that
20 duration.

21 You have to realize that each year, there's a
22 new Commission.

23 MR. SIEGEL: Or candidate.

24 MR. MILLER: Or candidate.

25 We've got a new Commission. We've got

1 Mr. Siegel and Mr. Sarge Reynolds here, who never
2 had any participation and never had an opportunity
3 to disapprove or approve the horsemen's agreement
4 we're dealing with.

5 The point I'm getting at is that for calendar
6 year 2012, we're going to have to have a horsemen's
7 agreement to approve or disapprove.

8 You can come back and assert that you still
9 have one year left on your multi-year agreement, but
10 the Commission's position is that from a technical
11 standpoint, that contract is -- You're gonna have to
12 come back.

13 You can Xerox the same terms, if you wish, and
14 come back with the identical terms as a horsemen's
15 agreement for calendar year 2012, but we are going
16 to be looking for a horsemen's agreement for
17 calendar year 2012 to approve or disapprove the
18 terms thereof.

19 We were particularly concerned with the
20 provision in that multi-year horsemen's agreement
21 that provided for terms to be changed and modified,
22 terms that the Commission may not have been
23 comfortable with.

24 I point out the stakes, the ability of the
25 horsemen to agree to an increase. As Mr. Petramalo

1 said, that has been done every year, so we shouldn't
2 be surprised by it.

3 But where there's an agreement by the horsemen
4 in concert with the contract, with the terms of the
5 contract to increase the stakes race purse
6 allocation to more than 20 percent, that's fine, but
7 that's done outside the --

8 It's done in accordance with the provision in
9 the contract which the Commission approved, but how
10 do we know the extent of the change that's made in
11 the 20 percent? You know, how far do you go? How
12 much have you agreed to and is it in the best
13 interest of the citizens of Virginia that those
14 stakes percentages be increased at any particular
15 time by the parties to the contract after we approve
16 the contract?

17 But those terms can be significantly amended,
18 modified, changed without our specific approval.
19 I don't like to say at the whim, but at the
20 instigation of one of the parties to the contract.
21 Do you understand what I'm saying?

22 So the Commission's just not comfortable with
23 that. We have nothing against Mr. Petramalo.
24 We think he would use his best judgment and the
25 horsemen are gonna use their best judgment to

1 protect their best interest.

2 I'm not suggesting that they're doing anything
3 that's detrimental to the citizens of Virginia, but
4 all I'm saying is that we're the Commission that's
5 responsible for the ultimate product.

6 We have to -- We're the ones that approve and
7 disapprove the terms of the contract. I just think
8 the terms of the contract need to be clear and
9 concise and something that's gonna be in effect for
10 the duration of the contract and not subject to
11 change without the specific approval of the
12 Commission.

13 Everyone get that point?

14 Amy, how'd I do? Do you have anything you
15 want to add?

16 MS. DILWORTH: You did well.

17 MR. MILLER: I'm always looking for
18 reassurance. I'm serious, Amy. Is there anything
19 else that I need to point out?

20 MS. DILWORTH: I think you addressed the issue
21 of the multi-year agreement.

22 MR. MILLER: All right. Now, we need a formal
23 motion on the record relating -- Oh, the other thing
24 before we leave this.

25 We would like -- Since I've been on the

1 Commission, it seems that the race day -- Here we
2 are March the 22nd. We're dealing with the race
3 days for a meet that's shortly to begin and it seems
4 like since I've been on the Commission, the requests
5 have come in later and later and the Commission has
6 acted later and later almost every year I've been on
7 the Commission.

8 We need to set a goal to have the race days
9 requests in here to the Commission and for you to
10 pull your horsemen's agreement together.

11 Like I say, you can cut and paste, if you want
12 to, however you want to recreate it, but anyway, I
13 think by November the 15th of 2011, we ought to
14 have -- This Commission should have before it filed
15 with the Commission the race days request for 2012
16 for both Thoroughbred and Standardbred and I hope
17 that you won't have any problem meeting that goal.

18 I know that we've let it slide in the past.
19 I don't think we can, with the condition that the
20 industry's in, we don't want to let it slide as it
21 has in the past, so let's try to meet that goal;
22 November the 15th, 2011 for the 2012 meet.

23 Now, if the deputy executive secretary will
24 read the motion relating to Thoroughbred racings,
25 we'll vote on that part first.

1 MR. LERMOND: Staff would recommend that the
2 Commission approve 33 days of Thoroughbred racing
3 for 2011 as requested jointly by the HPA -- Sorry.
4 Colonial and VTA, being on Wednesday, June 8th and
5 being on Sunday, July 31st, with live racing
6 conducted on a Wednesday, Thursday, Saturday, Sunday
7 schedule with post times at five p.m. on all days,
8 except for Sundays and on Monday, July 4th, when the
9 post times will be one p.m. and on Sunday, July 3rd,
10 when the post time will be five p.m.

11 MR. MILLER: Did you all follow that?

12 MR. PETRAMALO: Yes.

13 MR. MILLER: Is that correct? All right.

14 Do I hear a motion?

15 MR. SIEGEL: I so move.

16 MR. D. REYNOLDS: Second.

17 MR. MILLER: Moved and seconded that the
18 motion be approved. All approved, vote aye.

19 NOTE: All commissioners vote aye.

20 MR. MILLER: Motion's approved.

21 MR. SIEGEL: Second.

22 MR. LERMOND: Staff would recommend that the
23 Commission approve 30 days of Standardbred racing
24 for 2011, which will begin on Saturday,
25 September 17th and end on Saturday, November 5th,

1 with racing conducted on a Wednesday, Thursday,
2 Saturday, Sunday schedule, with one additional
3 special day of racing to be held on Friday, November
4 4th, with post times of one p.m. on all race days.

5 MR. MILLER: Do I hear a motion?

6 MR. SIEGEL: So moved.

7 MR. D. REYNOLDS: Second.

8 MR. MILLER: So moved and seconded.

9 All in favor, say aye.

10 NOTE: All commissioners vote aye.

11 MR. MILLER: So we've now disposed of the race
12 days. Any questions?

13 MR. PETTY: Mr. Chairman?

14 MR. MILLER: Mr. Petty?

15 MR. PETTY: Glenn Petty, the executive
16 director of the Virginia Thoroughbred Association.

17 In order for Tyler to get his book out in a
18 timely fashion, which I'm sure he thinks is
19 tomorrow, we need to get Commission approval of the
20 Breeders' Fund participation in the 2011 meet.

21 What that would typically entail is us taking
22 your action today, taking the information back to
23 the committee, making a proposal to the committee,
24 being your committee, your VRC Breeders' Fund
25 committee, then coming back to you for final

1 approval in April, which creates a time table
2 problem that's not acceptable to any of the parties.

3 What I would like to ask you to do, is if you
4 would give us preliminary approval today based on
5 the Commission's committee giving its final
6 approval, then we could move forward in a faster
7 manner.

8 All we would propose to the Committee, which I
9 believe will be accepted unanimously, is that we do
10 exactly what we did last year, with one exception.

11 Last year, year we did 60 percent owner's
12 bonuses for Virginia-breds that finished first
13 through fourth year. We paid a 25 percent bonus,
14 first through fourth in restricted races and we paid
15 a ten percent Breeder's bonus, ten percent of the 75
16 percent, to breeders of those horses.

17 All we would change for 2011 is the owner's
18 bonus would move from 60 percent to 75 percent.
19 So we're simply increasing the owner's bonus from 60
20 percent to 75 percent and we would again have a cap
21 established as we did last year of a half million
22 dollars for that total program so we can't run out
23 of money.

24 So if we could get preliminary approval of
25 some flavor that would suit everybody, including

1 Amy, so that we could take that to the Committee,
2 get approval and then get it to Tyler so he can move
3 forward without waiting until the end of April.

4 MR. MILLER: The only thing that would be
5 changing is the owner's bonus --

6 MR. PETTY: Just the owner's bonus would be
7 increased.

8 MR. MILLER: From 65 to 75.

9 MR. PETTY: -- from 60 to 75.

10 MR. MILLER: Sixty to 75.

11 MR. PETTY: Yes, sir. Everything else would
12 stay exactly the same.

13 MR. MILLER: I don't know exactly who is on
14 that committee. You're on the committee, is that
15 correct?

16 MR. LERMOND: Currently, yes.

17 MR. MILLER: Who else serves on that
18 committee?

19 MR. LERMOND: Mr. Burnett was on the
20 committee.

21 MR. MILLER: Who else?

22 MR. LERMOND: Mr. Petty, Tyler, Sarah Colette,
23 Don Denehey, Reynolds Cole and Mark Dean.

24 MR. PETRAMALO: Yeah.

25 MR. MILLER: But you need it by tomorrow?

1 MR. PETTY: No. I'm being facetious, but we
2 do need it as soon as possible. If we could get
3 some sort of preliminary approval from the
4 Commission, we can go back to the Committee, who is
5 already in the loop, and say if you guys sign off on
6 this, then we can get it to Tyler and he can include
7 it in the book.

8 MR. MILLER: When do you need preliminary
9 approval?

10 MR. PETTY: We need the preliminary approval
11 to go forward, but I guess you would make that
12 subject to the Committee's approval.

13 MR. MILLER: I'm going to appoint -- Mr. Sarge
14 Reynolds is going to go on the Committee to take the
15 place of Mr. Burnett, but the Committee can't meet
16 today.

17 MR. PETTY: The Committee has met previously
18 sort of via e-mail. Its met in cyberspace.

19 Because we annually have these face-to-face
20 meetings where we sit around and talk about
21 reinventing the wheel and then we realize we don't
22 have any money and that we can't reinvent the wheel
23 with the limited amount of funds we have and that
24 the only logical thing to do is move forward as
25 proposed, which is not dissimilar to the

1 conversation you just had about racing days, you
2 know, so.

3 MR. MILLER: Well, if you're doing the same
4 thing this year as you did last year, except for the
5 one noted item and that is increasing the owner's
6 bonus from 60 percent to 75 percent --

7 MR. PETTY: Yes, sir.

8 MR. MILLER: -- I suppose we could -- the
9 Commission could indicate to the Committee at this
10 time, if we wish to do so, that we find that would
11 be satisfactory for this coming year and ask the
12 Committee to so recommend.

13 MR. PETTY: That would solve the problem,
14 because --

15 MR. MILLER: Will that satisfy --

16 MR. PETTY: I believe that would satisfy
17 everybody that we would move forward.

18 MR. D. REYNOLDS: Are you in agreement?

19 MR. LERMOND: I am. That's a good solution.

20 MR. MILLER: But we all realize that the
21 Committee then may --

22 MR. PETTY: Could throw us a curve ball?

23 MR. MILLER: But you're satisfied -- I as
24 Chairman will suggest that the Commission -- Frank,
25 help me out.

1 MR. PETTY: Come on, all you lawyers, give me
2 something.

3 MR. PETRAMALO: If the Breeders' Committee
4 were to recommend a 75 percent bonus, the Commission
5 would find that acceptable.

6 MR. MILLER: For the owners.

7 MR. PETRAMALO: Yes.

8 MR. MILLER: If the committee should recommend
9 that they do the -- operate under the same
10 conditions as last year, except for the increase of
11 the owner's bonus from 60 percent to 75 percent, the
12 Commission would not object.

13 MS. DILWORTH: Mr. Chairman, I would add to
14 the record that any agreement submitted to the
15 Commission for approval would also, as always, be
16 subject to the regulations pertaining to the
17 Virginia Breeders' Fund.

18 MR. PETTY: Makes sense. And I believe we
19 would then come back for final approval in April,
20 per our normal way of doing business.

21 MR. MILLER: All right.

22 MR. PETTY: We just need to get in front of
23 April 20 whatever for --

24 MR. D. REYNOLDS: We need a motion for that?

25 MR. MILLER: Yeah. Make a motion, Dave.

1 MR. D. REYNOLDS: Dave.

2 MR. MILLER: If I could, I'm gonna take the
3 liberty of having Frank Petramalo state the motion
4 for us.

5 MR. PETRAMALO: The motion is as follows: The
6 Commission hereby agrees to accept a
7 recommendation -- approve a recommendation from the
8 Breeders' Committee of maintaining the same
9 Breeders' program as last year, with the following
10 change: The owner's bonus would be increased from
11 60 to 75 percent.

12 MR. MILLER: And Amy, state what you said
13 again.

14 MR. PETRAMALO: Subject to the -- subject, of
15 course, to the normal state regulations with regard
16 to the Breeders' Fund.

17 MR. MILLER: Okay.

18 MR. D. REYNOLDS: And final approval.

19 MR. PETRAMALO: And final approval.

20 MR. MILLER: And final approval by the
21 Commission. Okay.

22 MR. SIEGEL: So moved.

23 MR. MILLER: Second?

24 MR. D. REYNOLDS: Second.

25 MR. MILLER: All in favor?

1 NOTE: All commissioners vote eye.

2 MR. PETTY: Thank you.

3 MR. MILLER: Does that meet your --

4 MR. PETTY: That's perfect.

5 MR. MILLER: We're here to serve.

6 MR. PETRAMALO: New Commissioner Reynolds, if
7 you're not familiar with this, this is how it works.

8 What we're trying to do is improve breeding --

9 MR. S. REYNOLDS: Right. I understand.

10 MR. PETRAMALO: -- in the state. What happens
11 is, in any open race at the race track, if you own a
12 Virginia-bred and it's a \$10,000 purse, if you own a
13 Virginia-bred, you're competing for \$17,500. That's
14 the, quote, owner's bonus.

15 MR. S. REYNOLDS: Right.

16 MR. PETRAMALO: Last year, with the 60 percent
17 bonus, the Breeders' Fund gave out I think \$443,000
18 on top of the normal purses.

19 MR. S. REYNOLDS: Right. Now, my question was
20 since I'm on this committee, have you set up a
21 meeting yet?

22 MR. MILLER: I suggest you get together with
23 Dave and Glenn.

24 MR. S. REYNOLDS: Okay.

25 MR. MILLER: You all can work something out

1 and let's be sure that that appears on the April
2 agenda for the final approval of the Commission.
3 So make that note, please.

4 Okay. Now, we have next on the agenda -- and
5 I apologize for keeping my good friend Curry Roberts
6 waiting so long, but he gets to see democracy in
7 action here.

8 We have the application to conduct limited
9 license of live races at Strawberry Hill State Fair
10 Service Corporation. Mr. Curry Roberts.

11 MR. ROBERTS: Mr. Chairman.

12 MR. MILLER: You want to embellish on your
13 application?

14 MR. ROBERTS: I'd like to say as little as
15 possible, Mr. Chairman, if that's possible.

16 MR. MILLER: We'd probably like to hear as
17 little as possible.

18 MR. ROBERTS: No. I've enjoyed the morning
19 watching democracy at work.

20 You have, I think, in your package a
21 recommendation from Dave Lermond, which is a review
22 of our application. We have no disagreement with
23 either the staff's report or the recommendation.

24 I do have one correction in Item Four in the
25 deliverables. It should be 16 directors instead of

1 22. We have 17 members, but one of them is a common
2 board member of the services corps and you already
3 have his information on our application.

4 We are very excited about this opportunity.
5 I think we and Colonial Downs were very pleased with
6 the participation last year in simulcast wagering.

7 We think adding four steeple chase races for
8 live wagering adds another dimension to the races
9 themselves and it also helps promote Thoroughbred
10 racing in Virginia and promotes interest having
11 Colonial Downs outside of our one-day event and it
12 opens to an audience everyone would like to have
13 wagering exposed to that's not typical demographic
14 that attends races at Colonial Downs and we'd like
15 to help that along as well.

16 We do own The Meadow. We do own the
17 birthplace of Secretariat, so racing is something
18 that we would like to promote and to promote not
19 only at Strawberry Hill, but at other events we have
20 year 'round.

21 With that, Mr. Chairman, I'd be happy to
22 answer questions that you may have.

23 MR. MILLER: Any commissioners have any
24 questions?

25 MR. SIEGEL: I don't have any questions.

1 I'd just like to welcome Curry and I think
2 this is a great idea and given the struggles and the
3 challenges of Thoroughbred racing in the
4 Commonwealth and beyond and the ideas like this and
5 perhaps others going forward would enhance our
6 potential success.

7 MR. ROBERTS: Thank you.

8 MR. MILLER: Anyone else have any observations
9 or statements, et cetera?

10 NOTE: There is no response.

11 MR. MILLER: Do I hear a motion that we
12 approve the staff report?

13 MR. LERMOND: With the conditions as outlined?

14 MR. MILLER: That changed from 22 to what?

15 MR. ROBERTS: Sixteen.

16 MR. MILLER: Sixteen. Approve the staff
17 report and its recommendations as amended. Item No.
18 Four, strike 22 and insert 16.

19 MR. SIEGEL: So moved.

20 MR. D. REYNOLDS: Second.

21 MR. MILLER: All in favor?

22 NOTE: All commissioners vote aye.

23 MR. MILLER: Okay. Curry, nice to see you.

24 MR. ROBERTS: Thank you so much.

25 MR. MILLER: I agree with Mr. Siegel. I see

1 what you're doing and I believe it'll add to our
2 efforts to try to get racing more in the forefront
3 of some of our citizens, getting Strawberry Hill
4 involved to a greater degree with the other racing.
5 A lot of people think your racing is the only racing
6 that goes on in Virginia.

7 MR. ROBERTS: We'd love to sell all of them a
8 ticket, so that'd be just great. Thank you,
9 Mr. Chairman. Thank you all.

10 MR. MILLER: Good to see you.

11 Is there any member of the public here who
12 would like to -- We heard from one member of the
13 public.

14 Do you have anything else to add?

15 MR. STAPLES: Yes, sir. I like what's going
16 on in this room. I think everybody's heading in the
17 right direction.

18 MR. MILLER: Well, that's what we like to
19 hear.

20 MR. STAPLES: Promotion is very critical to
21 this.

22 MR. MILLER: Thank you.

23 Anyone else have anything to add?

24 NOTE: There is no response.

25 MR. MILLER: Our next regular meeting date is

1 April the 26th. Does anyone have any problem with
2 that date?

3 NOTE: There is no response.

4 MR. MILLER: April the 26th. That's the
5 meeting that we'll have on the agenda the item that
6 we discussed.

7 Would there be any strong objection to
8 starting the meetings at ten o'clock rather than
9 9:30? Anyone? It would help me a little bit. I
10 drive over here from way over in the valley, so just
11 that little extra half hour would be helpful, but I
12 don't want to do it to the detriment of anyone else.

13 MR. D. REYNOLDS: That's a small thing we
14 could do for you. I'll support that.

15 MR. MILLER: So let's make a note of that,
16 that unless it works out to be a problem, we'll
17 start our meetings at ten o'clock. So our meeting
18 on April the 26th will begin at ten o'clock, ten
19 a.m., instead of 9:30, if that's all right.

20 Now, everyone is welcome to stay and enjoy the
21 Commission for as long as you can stand it.

22 We have some personnel items we are gonna take
23 care of by going into closed session and then of
24 course when we take care of those items, we are
25 mandated to come back to an open session.

1 I will promise you that when we come back to
2 open session, the only thing that will be done will
3 be a motion to adjourn so that you don't have to
4 monitor to make sure that we don't go -- What is it?
5 You know, we don't --

6 MR. S. REYNOLDS: Change the race days.

7 MR. MILLER: We don't reconsider the previous
8 motion or something. So as I say, you're welcome to
9 stay, but that's all we will do when we return is
10 just come back in and read the mandated statutory
11 language about coming out of closed session and then
12 move to adjourn.

13 In accordance with the provisions of Section
14 2.2-3711(a)(i) of the Code of Virginia, I move that
15 the Commission go into closed meeting for the
16 purpose of discussion or consideration of the
17 assignment, appointment, performance or salary of a
18 specific public officer, appointee or employee of
19 the Commission.

20 Do I hear a motion?

21 MR. SIEGEL: So moved.

22 MR. S. REYNOLDS: Second.

23 MR. MILLER: Do you vote aye?

24 MR. D. REYNOLDS: Aye.

25 MR. MILLER: Aye.

1 MR. SIEGEL: Aye.

2 NOTE: The hearing observes a recess at
3 11:37 a.m.; thereafter, the hearing reconvenes
4 at 11:56 a.m. as follows:

5 MR. MILLER: I move the adoption of the
6 following resolution:

7 WHEREAS, the Virginia Racing Commission has
8 convened a closed meeting on this date pursuant to
9 an affirmative recorded vote and in accordance with
10 the provisions of the Virginia Freedom of
11 Information Act;

12 And WHEREAS, Section 2.2-3712 of the Code of
13 Virginia requires a certification by this Commission
14 that such closed meeting was conducted in conformity
15 with Virginia law;

16 NOW, THEREFORE, BE IT RESOLVED, that the
17 Virginia Racing Commission certifies that, to the
18 best of each member's knowledge, (i) only public
19 business matters lawfully exempted from open meeting
20 requirements under the Virginia Freedom of
21 Information Act and (ii) only such public business
22 matters as were identified in the motion convening
23 the closed meeting were heard, discussed or
24 considered by the Commission in the closed meeting.

25 Mr. Siegel.

1 MR. SIEGEL: Aye.

2 MR. MILLER: Mr. Dave Reynolds.

3 MR. REYNOLDS: Aye.

4 MR. MILLER: Sarge Reynolds.

5 MR. S. REYNOLDS: Aye.

6 MR. MILLER: I vote aye.

7 Do I have a motion that we adjourn?

8 MR. SIEGEL: So moved.

9 MR. D. REYNOLDS: Second.

10 MR. MILLER: All in favor.

11 NOTE: All commissioners vote aye.

12 MR. MILLER: All right. All vote aye.

13 So adjourned until April 26th at ten a.m.

14 MR. PETRAMALO: Sharp.

15

16 NOTE: The hearing is then adjourned at

17 12:06 p.m.

18

19 HEARING ADJOURNED

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CERTIFICATE OF COURT REPORTER

I, Sandra G. Spinner, hereby certify that having first been duly sworn, I was the Court Reporter at the meeting of the Virginia Racing Commission at the time of the hearing herein.

Further, that to the best of my ability, the foregoing transcript is a true and accurate record of the proceedings herein.

Given under my hand this 21st day of April, 2011.

SANDRA G. SPINNER
COURT REPORTER