VIRGINIA RACING COMMISSION

October 2, 2018

STATE CORPORATION COMMISSION
TYLER BUILDING
COURTROOM A
1300 EAST MAIN STREET
RICHMOND, VA 23219

Commencing at 10:00 a.m.

COMMISSION MEMBERS:
D.G. Van Clief, Jr., Chairman
J. Sargeant Reynolds, Jr.
I. Clinton Miller

COMMISSION STAFF:
David S. Lermond, Jr., Executive Secretary
Kimberly C. Mackey, Office Administrator
Rhonda Davis, Pari-Mutuel Wagering and Licensing Coordinator

ATTORNEY GENERAL'S OFFICE:
Robert N. Drewry, Esquire

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CHAIRMAN VAN CLIEF: Good morning, everybody.

It's ten o'clock and I would like to call to order this meeting of the Virginia Racing Commission. I would note initially that we have three out of four serving commissioners present. That does constitute a quorum, but I would further note that any action we take today will require a unanimous vote of the three of us for passage. I'm also going to make a couple of changes in the order of our agenda and I'll need a motion to do this.

I'd like to move the public comment period up in advance of our new business so that we can be informed by any commentary that any of you might have before we get to the action items, and particularly to the adoption of the Final Emergency Regulations today, which is on our agenda as new business, Item C.

I'm also anticipating at this point a closed session which is not on the agenda, but I anticipate we'll approve minutes, entertain our reports from the Virginia Equine Alliance, as well as the Virginia Gold Cup, and then in advance of considering adoption of the Emergency Regulations for HHR, we will go into a closed session. So those are the changes we're anticipating.
With all of that, I call the meeting to order and would ask for an approval motion for our July 31 meeting minutes or amendments, as the case may be.

COMMISSIONER MILLER: First of all, Mr. Chairman, I move that we adopt the amendment to the agenda.

COMMISSIONER REYNOLDS: I second.

CHAIRMAN VAN CLIEF: We have a motion and a second. All in favor, please signify by saying aye.

NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: That passes. Thank you very much, sir. Now we have the approval of the July 31 minutes. Move to approve any amendments.

COMMISSIONER REYNOLDS: Yes, sir.

COMMISSIONER MILLER: Second.

CHAIRMAN VAN CLIEF: All in favor of approval, signify by saying aye.

NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: Thank you very much. The minutes are approved as is the change in agenda order. That takes us to new business.

Mr. Hannum, I believe we have a -- Okay. We do have a racing meeting in progress and we'd like to tap in and see how things are going in Woodstock.

Yes. I'm sorry. I'm contradicting my own
change of order. Let's go ahead as I indicated and
do the public comment period right now. So if
anybody has got comments they'd like to make on any
business contemplated today, please put your hand in
the air, let us know, state your full name and we
will go on the record. We'd ask that you limit
comments to five minutes max. Thank you very much.

MR. HETZLER: Good morning, Commissioners. My
name is Josh Hetzler. I'm legislative counsel for
Family Foundation of Virginia. I'm here today to
bring to the attention of the Commission members a
matter of critical importance as we move forward and
decide on these regulations for historical horse
racing.

My comments are in regards to the nature of
pari-mutuel wagering itself, stressing the
importance of approving only those terminals which
are actually being considered pari-mutuel.

Historically and universally, pari-mutuel
wagering is distinguished by its three critical
components; all betters who bet on a common event,
all betters are sequestered in a common wagering
pool and all winning betters are paid a common
price. The Virginia statutory definition of
pari-mutuel wagering is reflective of this scheme.
In consulting with leading experts in this field, it is evident that the current providers of historical racing terminals, however, do not follow these rules for pari-mutuel wagering.

Instead, they practice an identical methodology to a Bingo card or class two slot machine gambling. Their betters are virtually all on different events and different pools in a race to reach a requirement of three winners and three races or player hitting his so-called trifecta before any of the other players actually win.

It's played first to win just like a Bingo game and consolation prizes of one or two winners, all of which have absolutely nothing to do with pari-mutuel processes as practiced live and simulcast racing.

The consolation prize amounts are purely arbitrary and have no connection to pari-mutuel pool divisions. Their wagering has no connection to the underlying pari-mutuel pools of their index-stored races, so they're actually creating a type of non-pari-mutuel pools that were never used in the past, nor do they currently exist to be used on any underlying live race.

The Commission should not overlook that the original purveyor of historical racing lost its
7 patents in court because the material was ruled not patentable since it's the same system, operating system, for that of a class two slot machine that last had been in the public domain for decades.

Race tracks are licensed to conduct pari-mutuel wagering on its races and simulcast races; thus, if the current providers of historical horse racing terminals want to conduct wagering on historical horse racing in a manner that it is currently offering, the Racing Commission should deny those requests because they're not in fact pari-mutuel.

The Commission should further consider that to the extent that the current historical horse racing terminals are not actually pari-mutuel, that any action to approve such non-authorized terminal for use in Virginia could be subject to a legal challenge.

I do have some information to provide you all on that, but I hope that the Commission will consider these things as it looks over the regulations today. I'm happy to provide these.

CHAIRMAN VAN CLIEF: Thank you, Mr. Hetzler. Is there anyone else who would like to make a statement? In the back.

MR. BERMAN: Good morning. For the record, my
name is Tad Berman. Today, I would like to address
the matter of live race days and purse money that
supports it. For Virginia to be able to grow live
race days, we need a critical supply of money to
only be spent on live racing here in the
Commonwealth. For the past four years since the VEA
was created, I've seen a number of things that have
happened regarding the use of that money in ways I
don't believe it was ever intended to be used for.

To begin with, we have spent millions of dollars
in purse money to run live race days in Maryland and
West Virginia. Virginia purse money was never meant
to be used to support live racing in another state.

I didn't cast my vote in 1988 to approve
pari-mutuel wagering or horse racing with the
knowledge that I would have to drive to Maryland to
see it. Now that racing will be returning to
Colonial Downs next year, this must stop immediately
and these funds need to be used to support live
racing here in the Commonwealth the way it was
intended to be.

Even more disturbing to me is the Virginia
Certified program. This program is nothing more
than a way for the VTA to pad the pockets of their
membership at the expense of the horsemen's purse
account. If you look at it from a cost benefit standpoint, this benefit will cost us a fortune for years to come.

At last count, we were already told there were 800 horses that had been certified and that number is continuing to grow daily. The way this program is structured, after the foals have satisfied their requirement to reside in Virginia for six months, they have absolutely no motivation to stay here or even to ever come back to Virginia again for any reason because they can collect their bonus checks in as many as six other states in the Mid-Atlantic region.

Depending on the horse, that means we can be writing bonus checks to some of these horses for three, four or even five years later down the road.

Worst of all, the moneys being used to pay bonuses to these out-of-state horses competing at out-of-state tracks is all coming out of the Virginia horsemen’s purse account.

At the end of the day, all this program amounts to is what I like to call horsy welfare. It does nothing to promote the breeding and racing business in Virginia. What it does do is drain the purse account for the exclusive benefit of a small
Lastly, I would like to know how much remains of the money from the horseman's purse account that the VA HBPA unilaterally claimed as their own in 2015. That money was never intended to be at the disposal of the VA HBPA so they could spend it on whatever they want. It was meant to provide purses for live racing here in Virginia.

Last time we heard Mr. Petramalo told us there was still three to four million dollars in that account. I would like to know how much remains of that purse money and have it used to help pay purses for the upcoming 15 day live race meet in 2019. After all, that is how it was meant to be used all along. Now that we are going to have live racing returning to Virginia, using that money for its intended purpose is the right and honorable thing to do.

As we move ahead, I do not want to hear complaints from the VEA or the HBPA that we don't have enough purse money to run a 15 day live race meet that Virginia has been promised in the newly proposed rules and regulations. Any suggestion that there isn't enough purse money left available to accomplish that goal is simply bogus and without
As a race fan, I want to watch live racing here at home, not out-of-state, and as such, I want to see Virginia purse money used to support Virginia racing, not Maryland or West Virginia racing.

All things considered, I'm tired of seeing Virginia purse money used for the benefit of a select few individuals, especially when you consider that every penny spent that we discuss here comes out of the pockets of ordinary race fans like me, who expect and deserve live racing here at home, instead of supporting live racing in another state for the Virginia Certified program, whose only purpose is to subsidize the incomes of a small minority of the VEA's own membership. That is not how the purse account was intended to be used and this continuing pilferage of Virginia purse money should cease immediately. Thank you.

CHAIRMAN VAN CLIEF: Thank you, Mr. Berman. Any further comment? Mr. Hannum.

MR. HANNUM: Thank you, Commissioners. Just thinking about where we have come since --

CHAIRMAN VAN CLIEF: Excuse me. Your name for the record.

MR. HANNUM: Thank you. Jeb Hannum of the
Virginia Equine Alliance. For the Commissioners, I was thinking back to December 2017 when the VEA issued the Virginia horse racing industry strategic planning committee report to the Racing Commission. As you remember, we laid out five goals for the industry, and specifically two of which were to grow industry revenue and secondly to develop regionally and nationally recognized racing venues. So I think it's important to note that less than one year after the report was issued, we are poised to have some of those key goals achieved; specifically, additional revenue source for the revenue through the HHR machines.

Colonial Downs is being revitalized and will host racing next year, and our new partners, the Colonial Downs Group, are committed to building out the full complement of SWFs.

There were a number of recommendations in that report, but those three were particularly important for the health and longterm viability of the industry. So I just wanted to point that out and to also say that the VEA appreciates very much the speed at which the Commission developed the Emergency Regulations for the HHR, and now that this process is coming to an end, we look forward to the
year ahead working with the Commission, the Colonial Downs Group and to continue to grow racing and the breeding industry. So thank you very much.

CHAIRMAN VAN CLIEF: Thank you, Mr. Hannum.

Anyone else?

MR. STEVENS: Good morning, Mr. Chairman, members of the Commission. My name is Brent Stevens. I'm one of the investors and a member of the Colonial Downs Group. Jeb, thank you for those comments. I certainly appreciate and feel all that.

I want to say to all of you how honored we are to be here at this moment and we truly feel the enormity of what we're doing here today. I'd like to thank the Virginia Racing Commission and staff for all of your leadership and all of the time and effort you have expended to get us to this moment. We really feel like we are on the steps of revitalizing an industry that is so precious and so vital to the Commonwealth and of its citizenry and I want you to understand that we take this very, very seriously.

I'd like to thank Debbie Easter and all the members of the Virginia Equine Alliance and say that we are very much looking forward to building something that we'll all be very, very proud of.
As the owner of Colonial Downs, we feel the weight of this privilege and the enormity that it puts on our shoulders to deliver and we are very, very proud to be one of the leaders to bring horse racing back to the Commonwealth of Virginia and we will make you proud. Thank you.

CHAIRMAN VAN CLIEF: Thank you very much. We're glad to have you here. Anyone else? No one else. If not, that will conclude our public comment period and now we will go to new business.

Mr. Hannum, would you give us a report on the activities in Woodstock.

MR. HANNUM: Great. Thank you, Mr. Chairman. So we are now in our third season at Woodstock with the Shenandoah Downs harness meet. I think that the meet would be noted for one thing that stands out and that's rain. We've really battled Mother Nature. It has been difficult on the track and for the horsemen, but in true sort of spirit of the harness horsemen, they've knuckled down and put on some really good racing over the last three weekends.

I've got some numbers that I'll share which are interesting. Now that we're in our third season, we can start to track things a little bit.
I've compared our opening weekend this year to the corresponding weekend last year. We've adjusted our schedules a little bit, so the opening weekend last year and the opening weekend the first year were not necessarily on the same point in the calendar.

Saturday, September 15th, our overall handle for the day was $15,544 and that was a two percent increase from the same Saturday a year ago. The next Sunday, the 16th, which was a miserable, cold, wet day, handle was a little over 5,000, which was three percent less than the corresponding year.

The following weekend handle was tracked fairly similarly. This past weekend when we had really a nice weekend finally, we had a great day on Saturday. We don't count attendance officially, but I think it probably was our highest attended day if not one of the most highly attended days. Handle was 17,962, which was just a shade over what it was the previous year.

Then encouragingly on the 30th of September, Sunday, where handle and attendance are usually a little bit lighter, we did 13,000 in handle and attendance was very robust. So it was a great weekend and I think reflective of the support that
we can get when the weather cooperates.

Saturday was also noted for the appearance of Foiled Again. Foiled Again is a grand harness horse. He's 14 years old. He's won over $7.5 million and he won his 104th race on Saturday at Shenandoah Downs and he's sort of doing his final kind of tour of the country and we were really lucky to get him to come to Shenandoah Downs.

So credit to the VHHA and Darryl Wood and everyone for helping to make that happen. It was a really exciting race and just great to see that energy and enthusiasm for the highest earning harness horse in history.

The VHHA and Mike Pearson have been working hard to get government officials out to the track. Local delegate Todd Gilbert has been out. We are pleased that Commissioner Miller has been able to come on a number of occasions and the Secretary of Agriculture was out at the track a couple of weeks ago.

So we're looking forward to the weather cooperating. We will have a full analysis of handle and attendance after the meet is over and it's nice because now we'll have three seasons which we can track and compare to.

So we're still sort of finding our way out at
Woodstock and toying with different things. I think there still will need to be infrastructure improvements long term. Most of the horses are in temporary barns right now, which is fine when the weather cooperates, but not so good with all the rain we've had. So these are things that are on our mind and we'll discuss and share with the Commission after the meet.

So I'll pause there and take any questions.

CHAIRMAN VAN CLIEF: Any questions for Mr. Hannum? Thank you very much.

MR. HANNUM: Thank you.

CHAIRMAN VAN CLIEF: I appreciate it. Next up, we have been asked to approve a new simulcast arrangement which is entertained by Virginia Gold Cup. Could I call on their chairman, Dr. Allison, for a brief report.

DR. ALLISON: Yes. Mr. Chairman, the Virginia Gold Cup races are very honored to be invited to the XpressBet platform of simulcast of our races. I wanted to have it noted that our races are the first sanctioned jump meet to have such an invitation.

I'm also pleased to say that XpressBet has an exclusive arrangement with the betting shops in England and Australia and we will have our races in
front of a lot of knowledgeable jumping fans, so
this is a great thing for Virginia horsemen to be in
such a privileged position.

CHAIRMAN VAN CLIEF: Thank you, Dr. Allison.
For my fellow commissioners, in Tab Two of your
handout today, you will find a letter from
co-chairman, Dr. Griffin, of the Gold Cup requested
that we approve the amount just described by Dr.
Allison. Before we do that, are there any questions
for Dr. Allison? I've got one.

I imagine but don't know that the greatest
significance in this arrangement will be the
exponentially expanded audience that you're going to
enjoy. Do you have a sense of how many horse racing
fans you will be going to?

DR. ALLISON: Well, we don't, but we do know
that their platform is an international one and
concentrates on international leads as well as
national.

CHAIRMAN VAN CLIEF: Sounds like good exposure.
I'm happy to make a motion we approve the simulcast
arrangement you've reached.

COMMISSIONER REYNOLDS: I'll second.

CHAIRMAN VAN CLIEF: All in favor, please
signify by saying aye.
NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: Motion passes. Good luck with your enterprise.

DR. ALLISON: Thank you, sir.

CHAIRMAN VAN CLIEF: That brings us up to the adoption of Final Emergency Regulations of historical horse racing. As I indicated previously, we are going to go into what I hope will be a brief closed session.

I would like to move that the Virginia Racing Commission convene a closed meeting under the Virginia Freedom of Information Act to discuss the Regulatory Process for the purpose of obtaining legal advice, a matter lawfully exempted from open meeting requirements under Section 2.2-3711(a)(8) of the Virginia Code.

The following non-members will be in attendance to aid in the discussion, and those include representatives from the Attorney General's office: Stephen Cobb and Robert Drewry, as well as our executive secretary, David Lermond. Do I have a second?

COMMISSIONER MILLER: Second.

CHAIRMAN VAN CLIEF: Thank you. All in favor, please signify by saying aye.
NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: Motion carries. We're in closed session. We're going to exit by the back door. We have a conference room down the hall. We will make it as quick as we can. Thank you.

NOTE: The Commission is in closed session from 10:26 a.m. until 10:55 a.m.

CHAIRMAN VAN CLIEF: Okay, everybody. Thank you for your patience. I would like to move that the Virginia Racing Commission's closed meeting pursuant to Section 2.2-3711(a)(8) be adjourned and that the Commission return immediately to open session and;

WHEREAS, the Virginia Racing Commission has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provision of the Virginia Freedom of Information Act; and WHEREAS Section 2.2-3712(D) of the Code of Virginia requires a certification by this Commission that such closed meeting was conducted in conformity with Virginia law; NOW THEREFORE, BE IT RESOLVED, that the Virginia Racing Commission hereby certifies that, to the best of each Commissioner's knowledge, only public business matters lawfully exempted from open meeting requirements by Virginia laws were discussed in the closed meeting to which this
certification resolution applies, and only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Virginia Racing Commission.

I believe we need a second for that motion.

COMMISSIONER MILLER: I second.

CHAIRMAN VAN CLIEF: Thank you. I believe we need a roll call vote.

COMMISSIONER MILLER: Aye.

CHAIRMAN VAN CLIEF: Commissioner Miller votes aye.

COMMISSIONER REYNOLDS: Aye.

CHAIRMAN VAN CLIEF: Aye. Motion passes. Thank you.

We are back in open session and we have one item left, which is the adoption of Final Emergency Regulations for historical horse racing. I'd like to provide a bit of an introduction and a bit of context for this.

When Governor Northam signed House Bill 1609 into law this past April 9th, it started the clock ticking. We were given 180 days to develop, approve and promulgate the regulations that are in front of us. That 180 day clock ends on October 9th, so
consideration this morning is of the utmost importance.

On that date, we were also issued an executive directive from the Governor issued to this Commission which has had a profound influence on both the process of developing these regs and the work product that we have in front of us, and that's under Tab Three for my fellow commissioners in their books today.

I'm going to take just a minute. It's a bit, probably, a review for most of you in this room, but what I would like to do is try to paraphrase the Governor's executive directive which he issued concurrent at the time he signed the bill into law.

I'm picking and choosing here a little bit, but I think it's a good review.

COMMISSIONER MILLER: Mr. Chairman, I apologize. I left my glasses in that room. I have to go get them because I can't read.

CHAIRMAN VAN CLIEF: Okay.

MR. LERMOND: I'll get them.

COMMISSIONER MILLER: I'm sorry. It comes with age.

CHAIRMAN VAN CLIEF: I'll talk a little bit and then we can read again. I'd like to provide a
little review and some context, because again, I think this directive was absolutely fundamental to the whole process that we've been undergoing for the last several months.

The Governor says, I'm hoping this legislation, that being House Bill 1609, will reinvigorate the horse industry and allow Thoroughbred racing to return to Virginia. The signing of this legislation begins an important process regarding the regulation of historic horse racing.

Machines can allow for multiple simultaneous bets and for numerous bets in a very short period of time. This is a significant departure from the type of pari-mutuel wagering that has taken place in Virginia to date. House Bill 1609 empowers the Virginia Racing Commission to craft regulations to conduct historic horse racing.

The Administrative Process Act requires that I -- this is the Governor speaking -- approve any regulations promulgated by the Virginia Racing Commission before they become effective.

He goes on to say that I hereby provide the following directives to the Commission.

Placement of reasonable limitations on the proliferation of gaming in Virginia through historic
horses racing machines in order to ensure the safety and welfare of the people of the Commonwealth of Virginia.

The Commission shall also consider the local community opinions in determining whether to allow historic horse racing in a given locality, shall consider ensuring due attention is paid to gambling addiction, education, prevention and treatment in the conduct of historic horse racing and shall consider establishment of a maximum number of historic horse racing machines at a racetrack and a maximum number of historic horse racing machines at a satellite facility, as well as provisions related to the physical size of the satellite facility.

The Commission and its staff shall maximize for public engagement, comment and public review -- we've been through two full postings of the draft regulations; one on this Commission's website, one on a state government town hall. We've entertained a full meeting of commentary from the public so we've checked that box.

The Commission and staff shall actively engage interested parties in public meetings. We did that. The Commission shall work to keep the Sectaries of Commerce, Trade and Finance, the office of the
Governor and members of the General Assembly informed regarding the process.

I know that we've done that in addition to our own secretary, Secretary of Agriculture, and I know the stakeholders have been engaging in those kinds of conversations as well throughout this process.

So we've been through an exhaustive process of drafting the regulations which we're going to vote on here in a few minutes.

COMMISSIONER REYNOLDS: Mr. Chairman?

CHAIRMAN VAN CLIEF: Yes.

COMMISSIONER REYNOLDS: Would it be appropriate to enter into the record the entire executive directive? You paraphrased it very well, but would it be appropriate to enter the entire directive from the Governor into the --

CHAIRMAN VAN CLIEF: Yes, Commissioner. I thank you for that suggestion. I think it would, and as much as this has been so instrumental in the whole process, so I will send this around and we'll enter this into the record with today's deliberation.

I'd ask any of my fellow commissioners if they have any comments before we go further.

COMMISSIONER MILLER: Mr. Chairman, if I may. I'll try to keep my comments as concise as possible.
As you recall, we had a public hearing. We had a comment period and we had additional comment and an extended comment period relating to these rules and regulations we're about to adopt.

First of all, I point out these are temporary regulations and for everyone to understand these regulations are temporary regulations and will only be in effect for 18 months with a possible extension period of six months, if necessary.

So we're dealing with temporary regs regarding a very important industry that's hoping to implement a program here in Virginia.

At these public hearings and in all of the communications that the Commission received, at least that I received, and all commissioners received the same communications, the overwhelming, overwhelming majority of those opinions expressed addressed two particular items that are really not in concert with the Governor's directives.

Number one, the 3,000 maximum limitation on machines in Virginia. Secondly, the determination that the number of machines in any particular site would be governed by the population of the jurisdiction in which the machines are to be placed.

It's my strong belief that the 3,000
limitation -- that we should listen to the people that came for the public hearing. We should pay attention more readily to the comments expressed by the citizenry.

Now true, there are a great many people who agree with the 3,000 maximum and many of those people thought that 3,000 may be even too much, but the overwhelming majority of the comments and commentary that we received stated that the 3,000 limitation may inhibit the growth of the instant horse racing program in Virginia.

They pointed out the problems that took place when pari-mutuel wagering was first put into effect in Virginia; that more leeway was needed at that time to help implement the program of pari-mutuel wagering in general in order to meet the marketplace in order to justify the investment and in order to encourage more investment.

So we've been warned by many people that the 3,000 limitation may be an inhibitor to the success of the program. I believe that and I believe also that putting a population requirement in the localities where these machines are placed, to say for instance Vinton, because I think they presented a very strong argument.
Vinton voted years ago to get involved in pari-mutuel wagering with the idea that Vinton was going to serve the Roanoke valley, the City of Roanoke, a huge market area. That made it financially feasible for Vinton to do it. That made it politically popular for Vinton to do it. It made business sense for Vinton to do that. But to say to Vinton that you can only have so many machines based on the population of the town of Vinton just doesn't make economic sense.

To say to Martinsville that you have to depend on the population of Martinsville to support a program with such a huge investment required doesn't make sense because Martinsville, their market area includes Highpoint, North Carolina, Winston-Salem, North Carolina and points south for it to be an appropriate program.

So for those reasons among others which I'm not going to take the time to enunciate here today, but for those reasons, I strongly oppose or disagree -- I have to disagree. I don't oppose. But I disagree with the observations set forth in the Governor's directive, but everyone has to understand that the legislature in their wisdom, when they passed this legislation, they put an inhibitor and
inhibiting -- is that a word -- a clause in the legislation to require that this Commission pass regulations to govern this new facet of the industry. We have to adopt regulations within 180 days of the passage of the legislation. That 180 days is up Sunday, this Sunday.

So even though I disagree with the regulations that are before us right now, if you follow Justice Scalia's judicial guidance and you look at the statute and its four corners and its back pages and its front pages and every part of the statute, you do what the statute says and nothing more.

The statute says that we can have, oh, yes. You can have an instant horse racing program in Virginia, but you must adopt a regulatory regime relating to that instant horse racing within 180 days of the passage of this act.

So they put a provision in the code itself that in my opinion would destroy the entire legislation if we don't pass these regulations because this is the only meeting we're going to have.

If we don't do it today, the legislation would fail and Debbie Easter and Jeb Hannum and everyone else and Dr. Allison would have to walk the halls of the legislature again at the next sessions of the
General Assembly and try to implement instant horse racing in Virginia and I don't think we want to go there.

That's no fun. I can tell you from having been a former legislator. It's not fun on the legislative side. It's also not fun, I'm sure, on the business people's side to have to go and try to put the past legislation again that you thought you had in your grasp.

For that reason, I'm wimping out. I'm going to support these regulations today, voting for them just the way they are, although I strongly disagree with those particular provisions I pointed out.

But I do want to tell everyone concerned that sometime soon, and it has to be within, it has to be at least started, implementation has to start within approximately sixty days. Well, not approximately. Within in sixty days of today.

MR. LERMOND: October 9th.

COMMISSIONER MILLER: Within sixty days of October 9th, there has to be an implementation of what we call permanent regulations relating to instant horse racing in Virginia. So the process will begin to adopt permanent regulations, and it's my hope, although I will be tending my flock in the
Shenandoah valley and I won't be here, it's my hope that people will come forward and try to point out the problems with those two particular areas and a myriad of other things. I'm not going to take the time to get into the other things that I think we need to address, but those two particular things; that 3,000 limitation, whatever limitation.

I don't disagree 3,000 might be a good starting point, but my problem with the 3,000 limitation is that the Commission or someone doesn't have the ability to modify it and to go beyond the 3,000 if the market determines that that's where you should go. That's my objection; not to the 3,000 to begin with.

I sort of agree with the Governor somewhat in that you ought to start slow, but you ought to have the ability to grow without going back and re-legislating. That was my point about that.

I'm hoping that in the permanent regs, people will come forward and try to amend that provision that if you do have a limitation, that at least you have this Commission upon the meeting of certain conditions and upon the meeting of things in the market. If the market says you could grow and you should grow in order for the industry to survive and
to protect the investment of the people that are involved this industry, that you ought to be able to do that.

And that the town of Vinton and Martinsville, the people there need the hope that they can go out to their marketplace and have a successful program in their area, and you may be able to do that through some changes to be made in the future hopefully in the permanent regs. So with that, I'm ready to vote.

CHAIRMAN VAN CLIEF: Thank you very much for those thoughtful comments, Commissioner Miller. That then brings us to the point where we need to consider, and again they're under Tab Three in your meeting materials, approval and adoption of the Final Emergency Regulations for historical horse racing as set forth in front of you.

I'll make a motion that we approve these regulations before us.

COMMISSIONER REYNOLDS: I'll make a second.

CHAIRMAN VAN CLIEF: We have a second. Is there any further discussion or are there any questions from the commissioners? If there are none, then I would ask you to signify your approval by saying aye.
NOTE: The Commission votes aye.

CHAIRMAN VAN CLIEF: Any opposed? The regulations as set forth are adopted unanimously. Thank you very much.

One way or another, we've gotten through this entire agenda. I now need a motion to -- well, I'll stop there but I get ahead of myself. We do have a few moments for additional commissioner comments.

COMMISSIONER MILLER: Mr. Chairman, I do want to say one other thing. You know, we lost our counsel at the very inappropriate time and right in the thick of this matter relating to dealing with historic horse racing and our previous counsel left for greener pastures, but I want to say Robert Drewry is here today with us from the Attorney General's office and he's going to be the counsel here going forward and I want to have the permission to welcome him to the Commission. He has a relationship to one of our greatest former governors, Governor Mills Godwin, so he can't be all bad.

CHAIRMAN VAN CLIEF: Thank you. We join you in welcoming Mr. Drewry and it looks like we're almost there. He has survived his first baptism under fire with this Commission.
COMMISSIONER REYNOLDS: Mr. Chairman.

CHAIRMAN VAN CLIEF: Commissioner Reynolds.

COMMISSIONER REYNOLDS: Mr. Chairman, I wanted to pick up on what Mr. Stevens said earlier. That as a former chairman back when the racing world came to an end, I thought it was a breath of fresh air to see the stakeholders, the track owners making a commitment to work closely with the Virginia horse racing industry. From what I've seen from this chair, I think they've worked well together. I think they both deserve a lot of praise and congratulations for getting us to this point in time.

While the regulations aren't exactly the way I would like to see them either, I think they're regulations that we can utilize to get off to a great start here. I think we over the next couple of years can work hard together as a Commission with our stakeholders to realize this new dream that we have and I just want to thank you all for working so hard together.

I want to thank the public for all of their input and their comments. I do think this was a true public process and procedure, one that I hope that most of us can be proud of.
I'm sure not all of us are happy, but I think we have a great opportunity to get started and I just want to thank you all for all that you've done and I'm looking forward to the future and I know that you all will work well together, even years down the road, so thank you all for your work.

CHAIRMAN VAN CLIEF: Thank you, Commissioner Reynolds. A couple of last comments. I'd like to thank all parties who have been involved in this process over the last several months. Those of you who have given the thought and taken the time to speak before this Commission, to draft in most cases carefully your comments and submit them, we've literally reviewed hundreds of comments from the public, and I particularly thank all of you.

I don't think in any single instance have we received commentary that wasn't courteous and thoughtful. And again, that's sort of a rare quality these days.

I think that the industry as of this morning is reaching and passing through nothing less than a historic inflation point and I'd like to thank the VEA and the Gold Cup and the VHHA and the VHBPA, all of our horsemen and industry stakeholders for building an organization and creating an environment
in which this process would even be possible.

I would also like to thank Revolutionary Racing and the Colonial Downs Group for what is already a very substantial investment of both faith and money in this project and we look forward to the future.

Six years ago, this Commission empaneled a study commission of the industry and every single business indicator we looked at pointed downwards. I think over the last few years, although it may not be drastic, they have been inching back up and I think this sets the stage for a very positive growth to occur. I hope it does and I know this Commission looks forward to being supportive in any way we can.

Again, thanks to everyone. We have had the welfare of the entire Commonwealth in mind throughout this process and hopefully, the regs that we have just promulgated will give us all a healthy, positive and a forward-looking point from which to go. Thank you all very much and now we do need a motion to adjourn.

COMMISSIONER REYNOLDS: So moved.

COMMISSIONER MILLER: Second.

CHAIRMAN VAN CLIEF: Thank you. None are opposed. We stand adjourned.

NOTE: The hearing is adjourned at
11:20 a.m.
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 9th day of October, 2018.

Sandra G. Spinner

SANDRA G. SPINNER
COURT REPORTER