

TEXAS RACING COMMISSION

MEETING

10:30 a.m.
Tuesday,
January 29, 2019

Texas Animal Health Commission
Conference Room 1100
2105 Kramer Lane
Austin, Texas

COMMISSIONERS PRESENT:

JOHN T. STEEN III, Chair
RONALD F. EDERER, Vice-Chair
TIM KLEINSCHMIDT
CONNIE McNABB, D.V.M.
STEVEN P. MACH
MARGARET L. MARTIN

ON THE RECORD REPORTING
(512) 450-0342

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P R O C E E D I N G S

1
2 CHAIRMAN STEEN: Good morning. The time is now
3 10:30. At this time I'd like to call today's meeting of
4 the Texas Racing Commission to order.

5 Robert, would you please call the roll.

6 MR. ELROD: Commissioner Hicks?

7 (Not present.)

8 MR. ELROD: Commissioner Mach?

9 COMMISSIONER MACH: Here.

10 MR. ELROD: Commissioner Martin?

11 COMMISSIONER MARTIN: Present.

12 MR. ELROD: Commissioner McNabb?

13 COMMISSIONER McNABB: Here.

14 MR. ELROD: Commissioner Kleinschmidt?

15 COMMISSIONER KLEINSCHMIDT: Here.

16 MR. ELROD: Commissioner Schmidt?

17 (Not present.)

18 MR. ELROD: Commissioner Ederer?

19 COMMISSIONER EDERER: Here.

20 MR. ELROD: Chairman Steen?

21 CHAIRMAN STEEN: Here.

22 Robert, do we have a quorum?

23 MR. ELROD: Yes.

24 CHAIRMAN STEEN: Thank you.

25 Item II. Public Comment. Robert, anyone signed

1 up for public comment?

2 MR. ELROD: No.

3 CHAIRMAN STEEN: Next is agenda item III.A.1.
4 Budget and finance report. Before I do that, I'm going to
5 let Chuck give a general staff update.

6 MR. TROUT: Commissioners, we have two new
7 staff members with us today. Patrick Pence, please stand.
8 He is our new CFO. He comes to us from Health and Human
9 Services and a lot of experience in that area, and we're
10 really happy to have him as a real hands-on kind of guy.
11 He will be taking Adrienne's place. Adrienne is going to
12 take another position within that department.

13 Also, Virginia Fields, she is our new attorney.
14 She is the Chief of Enforcement. She will be handling
15 the prosecutions that we have with both our hearings and
16 also down at SOAH. She comes to us from TDLR. She is a
17 very experienced litigator, and I'm very happy to have her
18 on the staff also.

19 Two really great additions to the staff.

20 CHAIRMAN STEEN: Thanks, Chuck.

21 Welcome to both of you. Look forward to
22 working with you.

23 We'll move on to agenda item III.A.1. Budget
24 and finance report.

25 Gerry Dube, would you please give us the

1 update?

2 MR. DUBE: Good morning, commissioners. For
3 the record, my name is Gerald Dube, Director of
4 Administration for the Texas Racing Commission.

5 On pages 4 through 8 of your agenda packet, if
6 you have them handy, the agency's fiscal year 2019
7 operating budget is reflected there with revenue
8 collections and expenditures through the end of December
9 2018.

10 With 33.3 percent of the 2019 fiscal year
11 completed, the agency collected approximately \$2.38
12 million, or 31.05 percent of its projected revenue. We've
13 expended \$2.9 million, or 27.8 percent of budgeted
14 expenditures. Of the \$2.9 million in expenditures,
15 approximately \$1.76 million are appropriated expenditures
16 and \$331,208 are unappropriated expenses such as the
17 agency's share of retirement, health care, employee
18 insurance and FICA costs.

19 If there are any questions, I'll be happy to
20 try to answer them.

21 CHAIRMAN STEEN: Commissioners, do you have any
22 questions?

23 (No response.)

24 CHAIRMAN STEEN: Thank you, Gerry.

25 MR. DUBE: Thank you.

1 CHAIRMAN STEEN: The next item is agenda item
2 III.A.2. Wagering statistics report.

3 Curley Trahan, please give us the report.

4 MR. TRAHAN: Thank you, Mr. Chairman. Good
5 morning, commissioners.

6 In your meeting materials on pages 9 through 11
7 is a comparison report on wagering statistics from
8 calendar year ending December 31, 2018. The report
9 compares 2018 handle figures against the figures from
10 calendar year 2017.

11 For the 2018 total wagering activity for the
12 greyhound racetracks increased by 5.49 percent over 2017,
13 equating to just over \$2.1 million in added handle. Total
14 wagering activities for horse racetracks showed a slight
15 decrease of 2.42 percent for 2018 as compared to 2017,
16 representing a decrease in handle of just under \$8.6
17 million.

18 Overall, total wagers placed in Texas decreased
19 slightly by 0.56 percent, or just over \$1.6 million, while
20 total wagers placed on Texas races decreased by 5.89
21 percent, or just over \$7.6 million in handle.

22 I'd be happy to answer any questions.

23 CHAIRMAN STEEN: Commissioners, any questions?

24 (No response.)

25 CHAIRMAN STEEN: Thank you, Curley.

1 MR. TRAHAN: Thank you.

2 CHAIRMAN STEEN: The next item is agenda item
3 III.A.3. Enforcement report.

4 Jim Blodgett, will you please present this
5 report?

6 MR. BLODGETT: Mr. Chairman, commissioners,
7 good morning.

8 Commissioners, your Enforcement report this
9 morning can be viewed on page 12 of your materials packet.
10 This report highlights the violations handled by
11 personnel during the Lone Star Quarter Horse meet which
12 concluded on November 10.

13 Please keep in mind when reviewing these
14 Enforcement stats that these numbers represent only the
15 violations that were adjudicated by our judges during that
16 time frame and that there are violations not included that
17 remain in process.

18 Commissioners, within the materials you'll
19 notice that we've reported animal medication violations;
20 however, there are additional violations reported in this
21 category that remain under investigation and in process.

22 I'd be happy to answer any questions that you
23 might have.

24 CHAIRMAN STEEN: Commissioners, any questions?

25 (No response.)

1 CHAIRMAN STEEN: Thank you, Jim.

2 Next is agenda item III.B. Discussion and
3 possible action to approve the internal audit plan for
4 fiscal years 2019 and 2020. Monday Rufus is here to
5 present on these items.

6 MR. RUFUS: Good morning, Chairman and
7 commissioners. My name is Monday Rufus with the
8 accounting firm of Monday Rufus & Company, PC. I'd like
9 to also introduce my longtime associate, Mr. Robert
10 Gonzales; he's back there.

11 As required by the Internal Audit Act,
12 Government Code 2102.008, we have provided the audit plan
13 for fiscal years 2019 and 2020. We've prepared a risk
14 assessment to determine the areas -- by the way, I'm on
15 page 16 of your packet -- we prepared the risk assessment
16 to determine the areas of the Texas Racing Commission that
17 should be considered for audit, and based on that risk
18 assessment, the following areas are recommended for audit
19 in fiscal year 2019 and 2020, respectively. For fiscal
20 year 2019 we are recommending the audit of personnel
21 processes, and for fiscal year 2020 we are recommending
22 the audit of reporting key performance measures.

23 Your approval of the plan is required. I'll be
24 more than happy to answer any questions that you may have
25 related to the risk assessment and audit plan.

1 CHAIRMAN STEEN: Commissioners, do you have any
2 questions?

3 (No response.)

4 CHAIRMAN STEEN: Robert, has anyone signed up
5 to speak on this item?

6 MR. ELROD: No one.

7 CHAIRMAN STEEN: Otherwise, I'll entertain a
8 motion to approve the internal audit plan.

9 COMMISSIONER MARTIN: So moved.

10 CHAIRMAN STEEN: Motion made by Commissioner
11 Martin.

12 COMMISSIONER MACH: Second.

13 CHAIRMAN STEEN: Seconded by Commissioner Mach.
14 Any further discussion?

15 (No response.)

16 CHAIRMAN STEEN: Then we'll take this up for a
17 vote. All in favor please signify by saying aye.

18 (A chorus of ayes.)

19 CHAIRMAN STEEN: Any opposed?

20 (No response.)

21 CHAIRMAN STEEN: The motion carries. Thank
22 you.

23 Next is agenda item IV.A. Discussion and
24 possible action to approve management and concession
25 contract renewals for Retama Park.

1 Devon, will you please present the item?

2 MS. BIJANKSY: Good morning, commissioners.

3 Retama Park has submitted a request for
4 approval of amendments to their management and concession
5 contracts with PNK (SAM) to manage the racetrack and PNK
6 (SAZ) to run the alcoholic beverage concession.

7 We've reviewed them and have provided you
8 copies of both the proposed amendments and the underlying
9 contracts that were approved back in 2013. We don't see
10 any issues in terms of the Racing Act or the rules, so the
11 amendments are before you today for approval.

12 CHAIRMAN STEEN: Robert, has anyone signed up
13 to speak on this item?

14 MR. ELROD: No one has.

15 CHAIRMAN STEEN: Any questions, commissioners?

16 (No response.)

17 CHAIRMAN STEEN: If not, I'll entertain a
18 motion to approve the management and concession contract
19 renewals for Retama Park.

20 COMMISSIONER EDERER: So moved.

21 COMMISSIONER MACH: Second.

22 CHAIRMAN STEEN: Motion made by Commissioner
23 Ederer, seconded by Commissioner Mach. We'll take this up
24 for a vote. All in favor please signify by saying aye.

25 (A chorus of ayes.)

1 CHAIRMAN STEEN: Any opposed?

2 (No response.)

3 CHAIRMAN STEEN: The motion carries.

4 The next item is agenda item V.A.1. Discussion
5 and possible action to adopt to Section 321.320, Super
6 Hi-Five.

7 Devon, will you please present the item?

8 MS. BIJANKSY: Yes, Mr. Chairman.

9 These first four items are rules that were
10 proposed at the October meeting and are before you for
11 final action today. The amendments to Section 321.320
12 were proposed at the request of Sam Houston Race Park.
13 They changed the word "ticket" to "wager" in the unique
14 winning ticket provision so a person only wins if theirs
15 is the only winning wager.

16 We received no comments on this proposal, and
17 it's before you for final action today.

18 CHAIRMAN STEEN: Thank you, Devon.

19 Commissioners, any discussion?

20 (No response.)

21 CHAIRMAN STEEN: Robert, has anyone signed up
22 to speak?

23 MR. ELROD: No, sir.

24 CHAIRMAN STEEN: If not, is there a motion to
25 adopt the amendments to Section 321.320?

1 COMMISSIONER KLEINSCHMIDT: I move we adopt the
2 proposal.

3 COMMISSIONER McNABB: I'll second.

4 CHAIRMAN STEEN: Motion made by Commissioner
5 Kleinschmidt, seconded by Commissioner McNabb. All in
6 favor please signify by saying aye.

7 (A chorus of ayes.)

8 CHAIRMAN STEEN: Any opposed?

9 (No response.)

10 CHAIRMAN STEEN: The motion carries.

11 The next item is agenda item V.A.2. Discussion
12 and possible action to adopt the repeal of Section 311.52,
13 Spouse's License.

14 Devon, will you also present this item?

15 MS. BIJANKSY: Yes, sir.

16 This proposed appeal is a result of an FBI
17 audit of the agency's criminal history check processes.
18 They found that with the Spouse's License there's no
19 rational relationship to our regulatory scheme because
20 that is not an occupational license, and so conducting
21 background checks for that purpose they found not to be a
22 valid exercise of their authority.

23 If a licensee's spouse wants access to the back
24 side, they can, of course, accompany the licensee as a
25 guest. Currently we have about 15 spouse's licenses, and

1 so if this rule is adopted, those licenses would continue
2 but would not be able to be renewed. There were no
3 comments on this proposed repeal.

4 CHAIRMAN STEEN: Thank you, Devon.

5 Commissioners, any discussion?

6 (No response.)

7 CHAIRMAN STEEN: Robert, has anyone signed up
8 to speak?

9 MR. ELROD: No, sir.

10 CHAIRMAN STEEN: Is there a motion to adopt the
11 repeal of Section 311.52?

12 COMMISSIONER MARTIN: So moved.

13 CHAIRMAN STEEN: Motion made by Commissioner
14 Martin.

15 COMMISSIONER MACH: Second.

16 CHAIRMAN STEEN: Seconded by Commissioner Mach.
17 All in favor please signify by saying aye.

18 (A chorus of ayes.)

19 CHAIRMAN STEEN: Any opposed?

20 (No response.)

21 CHAIRMAN STEEN: The motion carries.

22 The next item is agenda item V.A.3. Discussion
23 and possible action to adopt the repeal of 16 TAC 321.41,
24 Cashing Outstanding Tickets, and V.A.4. 321.42, Cashing
25 Outstanding Vouchers.

1 Devon, will you please present this item?

2 MS. BIJANKSY: Yes, sir.

3 These repeals were requested by Sam Houston
4 because separate mutual windows for outs are unnecessary
5 now that tracks keep their own outs revenue. We received
6 no comments on these proposed repeals.

7 CHAIRMAN STEEN: Thank you, Devon.

8 Commissioners, any discussion?

9 (No response.)

10 CHAIRMAN STEEN: Robert?

11 MR. ELROD: No, sir.

12 CHAIRMAN STEEN: Is there a motion to adopt the
13 repeal of Sections 321.41 and 321.42?

14 COMMISSIONER EDERER: So moved.

15 CHAIRMAN STEEN: Motion made by Commissioner
16 Ederer.

17 COMMISSIONER MARTIN: Second.

18 CHAIRMAN STEEN: Second by Commissioner Martin.

19 All in favor please signify by saying aye.

20 (A chorus of ayes.)

21 CHAIRMAN STEEN: Any opposed?

22 (No response.)

23 CHAIRMAN STEEN: That motion carries.

24 Next item is agenda item V.B.1. Discussion and
25 possible action to adopt amendments to Section 313.103,

1 Eligibility Requirements.

2 Devon, will you please present this item?

3 MS. BIJANKSY: Yes, sir. If I may correct you,
4 it's action to propose these next several rules.

5 CHAIRMAN STEEN: Okay. Sorry.

6 MS. BIJANKSY: 313.103 is before you, it's for
7 proposal, it would add microchipping as an option to
8 identify horses. Currently horses are required to be
9 tattooed. The Jockey Club has changed their rules to
10 require Thoroughbreds to be microchipped, so this proposal
11 would expand the identification requirements to include
12 microchipping while also leaving tattooing in place as an
13 option.

14 If you vote to propose this item, it will be
15 published in the *Texas Register* for public comment.

16 CHAIRMAN STEEN: Thank you, Devon.

17 MS. BIJANKSY: And I should also mention that
18 these have all been before the Rules Committee, which
19 approved them to come forward to you today.

20 CHAIRMAN STEEN: Commissioners, any discussion?

21 (No response.)

22 CHAIRMAN STEEN: Anyone signed up to speak?

23 MR. ELROD: No, sir.

24 CHAIRMAN STEEN: Is there a motion to propose
25 these amendments to Section 313.103?

1 COMMISSIONER McNABB: So moved.

2 COMMISSIONER MACH: Second.

3 CHAIRMAN STEEN: Motion made by Commissioner
4 McNabb, seconded by Commissioner Mach. All in favor
5 please signify by saying aye.

6 (A chorus of ayes.)

7 CHAIRMAN STEEN: Any opposed?

8 (No response.)

9 CHAIRMAN STEEN: The motion carries.

10 The next item is agenda item V.B.2. Discussion
11 and possible action to propose amendments to Section
12 303.102, Greyhound Rules.

13 Devon, will you please present the item?

14 MS. BIJANKSY: Yes, sir.

15 These amendments were requested by the Texas
16 Greyhound Association to restrict Texas-bred awards to the
17 top four finishers in a race. Currently any Texas-bred
18 greyhound is eligible for breed awards as long as it's in
19 the top four Texas-breds in the race wherever it finishes,
20 so this change would cut off breed awards after fourth
21 place.

22 I believe someone may be here from the Texas
23 Greyhound Association to speak on this item.

24 MR. ELROD: No.

25 CHAIRMAN STEEN: Commissioners, any questions

1 of Devon?

2 (No response.)

3 CHAIRMAN STEEN: We have someone signed up to
4 speak. First we'll call Ken Turner, representing himself,
5 wishing to testify against.

6 MR. TURNER: Good morning, commissioners. My
7 name is Ken Turner. I am a Texas Greyhound Association
8 member, I'm a Texas breeder of greyhounds, I own
9 greyhounds and race in Texas, and I also am a kennel
10 owner, and I am representing owners and breeders that run
11 in my kennel at Gulf Greyhound Park.

12 The rules as it's written now benefits all
13 Texas breeders and dog owners, and the change to the rule
14 that the TGA wants to do is going to narrow down the group
15 of owners that will benefit from that rule.

16 In 2016 the membership, we had a meeting and we
17 voted to change the rule to the way it's written now
18 because a lot of the Texas breeders wasn't benefitting
19 from it. We all -- as breeders, we pay in to that awards
20 program, and a lot of the breeders wasn't receiving
21 something back from it, so the rule was rewritten, put
22 before the membership, and the membership decided to
23 change it as the way it is written now.

24 The way that the TGA Board is wanting to change
25 it has not been presented to the breeders and owners. In

1 fact, a lot of us didn't even know that this was going to
2 come about until about two weeks ago, and that's because
3 one person investigated, he had heard it, he looked at the
4 agenda of the meeting that was postponed, I think, in
5 December, and that's when he contacted some of us and let
6 us know what was going on.

7 A lot of us, we sell our greyhounds to
8 out-of-state people, and those people bought those
9 greyhounds under the understanding of the way the rule was
10 written now.

11 If you decide to allow the TGA to change that
12 rule, those people could possibly come back on liable on
13 us because we misrepresented the facts on something we
14 didn't even know was going to happen. I mean, these
15 people spend 20-, \$30,000 a dog, and they expect to get a
16 return on their money under the way the rule was written.
17 I think in 2018 so far at the nationals we have twice a
18 year, probably half a million dollars was purchased on
19 Texas greyhound dogs, and to change this rule midstream,
20 that's just wrong.

21 There are also today other breeders and kennel
22 owners that are representing people that run dogs in their
23 kennels, and if I could, could I ask them to stand up.

24 The owners and the breeders do not want this rule changed.

25 Seven out of the nine board members that voted to change

1 this rule don't even race in Texas, so they have nothing
2 invested in it.

3 And with that, I'll answer any questions. I'm
4 asking respectfully that the rule not be changed.

5 CHAIRMAN STEEN: Commissioner Kleinschmidt.

6 COMMISSIONER KLEINSCHMIDT: Of course, at this
7 point in time what we'd be voting on today is whether or
8 not it gets published for public comments. We're not
9 adopting it today. Okay?

10 And I don't know, I'm sort of one of those
11 people that I'd certainly like to see the public comments,
12 because like you're here today commenting, and I'd like
13 the public and more of the owners and the association
14 members to have some opportunity to have their input on
15 this proposed change even though they might not be able to
16 be here today. Okay?

17 And so I'm just trying to make it clear that if
18 I vote for sending this out for proposal today for public
19 comment, that doesn't mean I'm going to vote for it when
20 it comes back, I'm just trying to clarify that.

21 MR. TURNER: Okay. So would you like to
22 receive emails or letters?

23 COMMISSIONER KLEINSCHMIDT: Well, they all go
24 in -- you know, if this is proposed for public comment,
25 Devon, you've got a collection spot somewhere. They

1 probably send them in email and mail, the whole bit.

2 Right?

3 MS. BIJANKSY: Right. Any way they do it.

4 COMMISSIONER KLEINSCHMIDT: Right. And they
5 would collect them and put them together and then
6 distribute them to us as the Board members, you know, to
7 review, so to speak.

8 But for instance, if I vote no today, that
9 means we're not going to receive that public comment
10 because this is just to send it out for proposal. And
11 that means that what we're going to do is we've got the
12 TGA's and we've got your comments, but we really don't
13 have the public's comments at large yet which would reach
14 out to a larger group.

15 And as you can see, on some of these of former
16 rule changes, we don't always get comments, but apparently
17 we would get comments on this one if it's out there, and
18 we've certainly heard you and the other affected dog
19 owners to make those comments because they're important to
20 the staff and the Board, that's the only way we get to see
21 what you are thinking other than at these limited
22 meetings.

23 MR. TURNER: Right. Well, my main concern is
24 that I joined the TGA in 1999, and up until 2016 the rule
25 was written where only the winner of a race got paid, so

1 at the end of a month -- because the awards were paid out
2 once a month, at the end of a month only ten guys or
3 twelve guys were receiving funds from that award program
4 that we were all paying into, and that's why we rewrote
5 the rule, so that the whole membership had that
6 opportunity to get rewards from it.

7 COMMISSIONER KLEINSCHMIDT: It broadens the
8 pots.

9 MR. TURNER: Yes.

10 COMMISSIONER KLEINSCHMIDT: And, Devon, my
11 understanding is if we send this out for publication, we'd
12 receive the comments, it would come back, and based on
13 what we see there we would meet to vote on whether we
14 adopt this rule or not, and Mr. Turner would have another
15 opportunity to come and voice his support or opposition to
16 the rule.

17 MS. BIJANKSY: It would go before the Rules
18 Committee first and then it would come back here.

19 COMMISSIONER KLEINSCHMIDT: Okay. So we're not
20 anywhere close to the end of this thing, you know, and
21 that's important for the people out here to understand,
22 you know, because they've come here today. Regardless of
23 whether we vote to publish or not publish this today, this
24 is not the adoption of this change.

25 MR. TURNER: I was kind of under the impression

1 that it might happen today, and this is something that I
2 can tell you a lot of people do not want.

3 COMMISSIONER KLEINSCHMIDT: Right. And that's
4 why I want you to understand if I vote for publication,
5 that doesn't mean I vote for adoption of the rule.

6 MR. TURNER: Right. Okay. Thank you.

7 COMMISSIONER EDERER: I have a question. And
8 it will come again before the Rules Committee and you will
9 have that opportunity. But I have a question. You said
10 that there's seven of the nine people that are on the
11 Texas Greyhound Association that don't run in Texas?

12 MR. TURNER: Board? No, they're not running
13 their dogs in Texas.

14 COMMISSIONER EDERER: This is the Texas
15 Greyhound Association?

16 MR. TURNER: Yes.

17 COMMISSIONER EDERER: And seven of the nine
18 don't run in Texas?

19 MR. TURNER: And last year at the Texas meet
20 all nine did not run.

21 COMMISSIONER EDERER: Curious. Thank you.

22 CHAIRMAN STEEN: Any other questions?

23 (No response.)

24 CHAIRMAN STEEN: Thank you.

25 MR. TURNER: Thank you.

1 COMMISSIONER MACH: I have a question for
2 Devon. I was looking at the impact of the proposal,
3 Section B of the Committee on Rules, and it indicates that
4 there are no impacts, and I'm hearing, and as I think
5 about it as a business person, there are impacts, yet this
6 claims there are none.

7 MS. BIJANKSY: This was filled out by Mr. Peck,
8 who submitted the rule request. That's a valid point that
9 that would need to be figured into the Secretary of State
10 submission.

11 COMMISSIONER MACH: And there is not a member
12 of TGA here today to speak on this? Nobody here to
13 champion their change?

14 (No response.)

15 CHAIRMAN STEEN: Just to clarify, we do have
16 other comment cards here, all not wishing to testify but
17 against: James Parker, Peter Limmer, Paul Watt, and Nick
18 James.

19 MR. TROUT: Sir, I'm being signaled from the
20 back that they can't hear what you were saying.

21 CHAIRMAN STEEN: I'm sorry. I was naming the
22 other -- I'll repeat myself -- the other comment cards,
23 these are people not wishing to testify but also against,
24 as Mr. Turner was: Nick James, James Parker, Peter
25 Limmer, and Paul Watt.

1 And just to clarify, we don't have anyone from
2 the TGA here. Is that correct?

3 (No response.)

4 COMMISSIONER McNABB: I have a question.

5 CHAIRMAN STEEN: Sure.

6 COMMISSIONER McNABB: Do we have the option to
7 send this back to the Rules Committee rather than go for
8 the proposal piece? Obviously there is a difference of
9 opinion and the statement from the TGA that there was no
10 impact may have been under-informed.

11 CHAIRMAN STEEN: Devon, can you comment on
12 that?

13 MS. BIJANKSY: That would certainly be an
14 option, yes.

15 COMMISSIONER McNABB: Then I would offer,
16 whether you want to make a motion, I would offer that
17 sending it back to committee to really flesh this out
18 before we make decisions. Our assumptions that we were
19 provided were not accurate.

20 CHAIRMAN STEEN: Devon, what's the normal
21 procedure? Would this go to the committee first and then
22 come here, or what would be the normal path?

23 MS. BIJANKSY: It's already been to the
24 committee. At that point there was no opposition. If
25 you'd like to send it back, I would suggest perhaps giving

1 some instructions for what the committee might do, since
2 it's not a rewrite situation, it's really a further
3 inquiry.

4 COMMISSIONER MACH: I would make a motion that
5 this be sent back to the committee to do a reevaluation of
6 the impact of the rule before we consider posting it for
7 public comment.

8 COMMISSIONER McNABB: And that along with that,
9 that ample notification be made to the greyhound industry
10 in Texas that this is being considered and to invite their
11 comments.

12 MS. BIJANKSY: For sure.

13 COMMISSIONER MACH: I accept that friendly
14 amendment to the motion.

15 COMMISSIONER McNABB: Sorry.

16 CHAIRMAN STEEN: On the committee do you have
17 any comments?

18 COMMISSIONER EDERER: No. I look forward to
19 hearing from all parties.

20 CHAIRMAN STEEN: So do we have a motion?

21 COMMISSIONER MACH: I made a motion, she made
22 an amendment, which I accepted. We need a second, I
23 guess, unless the amendment counts as a second.

24 CHAIRMAN STEEN: I don't believe it does.

25 COMMISSIONER KLEINSCHMIDT: I'll second.

1 COMMISSIONER MARTIN: Second it.

2 COMMISSIONER EDERER: Since it's coming back to
3 me, I won't second.

4 CHAIRMAN STEEN: So Commissioner Mach, would
5 you please state the motion one more time?

6 COMMISSIONER MACH: That we will send the rule
7 back to the committee to reevaluate the impact statement
8 and --

9 COMMISSIONER McNABB: The amendment to notify
10 the greyhound members in Texas that this is being
11 reconsidered and that their input is being requested.

12 CHAIRMAN STEEN: Devon, does that work as a
13 motion?

14 MS. BIJANKSY: Yes.

15 CHAIRMAN STEEN: Okay. Motion made by both
16 commissioners.

17 COMMISSIONER KLEINSCHMIDT: I have a quick
18 question. Devon, so I understand if we went forward with
19 this, it would be published in the *Texas Register* and the
20 public gets notice of it. You know, it's a place where
21 you can go to look at this.

22 How do we get notice out to the industry that
23 we have this? As the Racing Commission do we have an
24 email database or some way we can send this out if the
25 committee wants to?

1 MS. BIJANKSY: We do. Yes, there's an email
2 list, not specific to greyhounds but we can send it to
3 everybody. Typically we would send out the notice of a
4 meeting and the agenda that way, but we can tailor it to
5 looking for input on this specific issue.

6 COMMISSIONER KLEINSCHMIDT: Okay. Just trying
7 to make sure we can practically comply with the motion and
8 the amendment.

9 MS. BIJANKSY: And there is a meet going on
10 right now, and so we can physically post notices as well.

11 COMMISSIONER KLEINSCHMIDT: Okay. That's what
12 I wanted. Thank you.

13 CHAIRMAN STEEN: Was there also a second?

14 COMMISSIONER KLEINSCHMIDT: Yes, there's a
15 second.

16 CHAIRMAN STEEN: Seconded by Commissioner
17 Kleinschmidt. Any further discussion?

18 (No response.)

19 CHAIRMAN STEEN: Then we'll take this up for a
20 vote. All in favor please signify by saying aye.

21 (A chorus of ayes.)

22 CHAIRMAN STEEN: Any opposed?

23 (No response.)

24 CHAIRMAN STEEN: The motion carries.

25 Next we're going to take agenda items V.B.3.

1 through V.B.5. together. These are discussion and
2 possible action to propose amendments to Section 301.101,
3 Definitions, 301.1, Purpose, and 303.95, Races for
4 Accredited Texas-Bred Horses.

5 Devon, will you please present these items?

6 MS. BIJANKSY: Yes, sir.

7 In the last legislative session the legislature
8 codified the Racing Act into the Occupations Code. This
9 is a nonsubstantive change but a significant sort of
10 visual change. Effective April 1 of this year, the Racing
11 Act will be Chapters 2021 through 2035 of the Occupations
12 Code instead of Article 179e of Vernon's Civil Statutes.
13 So these three items are minor nonsubstantive changes to
14 the rules where they currently refer to the Racing Act in
15 various ways.

16 The first of these references just defines what
17 the Act refers to, so this change would be updated to
18 refer to the appropriate section of the Occupations Code,
19 and the other two references can be deleted altogether.

20 CHAIRMAN STEEN: Commissioners, do you have any
21 questions?

22 (No response.)

23 CHAIRMAN STEEN: Is anyone signed up to speak
24 on these items?

25 MR. ELROD: No, sir.

1 CHAIRMAN STEEN: If not, I'll entertain a
2 motion to propose these amendments to Sections 301.101,
3 Definitions, 303.1, Purpose, and 303.95, Races for
4 Accredited Texas-Bred Horses.

5 COMMISSIONER EDERER: So moved.

6 COMMISSIONER MACH: Second.

7 CHAIRMAN STEEN: Motion made by Vice-Chair
8 Ederer, seconded by Commissioner Mach. Any further
9 discussion?

10 (No response.)

11 CHAIRMAN STEEN: We'll take this up for a vote.
12 All in favor please signify by saying aye.

13 (A chorus of ayes.)

14 CHAIRMAN STEEN: Any opposed?

15 (No response.)

16 CHAIRMAN STEEN: The motion carries.

17 The next item is agenda item V.B.6. Discussion
18 and possible action to propose amendments to Section
19 321.321, Fortune Pick.

20 Devon, will you please present this item?

21 MS. BIJANKSY: Yes, sir.

22 These amendments were requested by Lone Star
23 Park, and there are two parts. The first would give
24 tracks the option to only have a major pool with the
25 Fortune Pick n wager instead of a major pool for picking

1 all of the winners correctly and a minor pool for picking
2 five out of six.

3 The second part of the changes to this rule
4 would allow a track that unexpectedly has a carryover pool
5 at the end of a meet to carry it over to the next meet of
6 the same breed rather than just the very next meet.

7 I do want to point out there's one change to
8 the draft versus the draft that went before the Rules
9 Committee, and that would impose a twelve-month limit to
10 the time that it can be carried over to ensure that a pool
11 wasn't carried over indefinitely. That language is
12 highlighted in your materials on page 50, and I believe
13 someone from Lone Star may be here to speak on this item.

14 (No response.)

15 MS. BIJANKSY: Again I am wrong.

16 CHAIRMAN STEEN: Commissioners, any questions?

17 (No response.)

18 CHAIRMAN STEEN: Robert, is anyone signed up to
19 speak?

20 MR. ELROD: No, sir.

21 CHAIRMAN STEEN: Do we have anyone from Lone
22 Star who wishes to speak on this item?

23 (No response.)

24 CHAIRMAN STEEN: If not, I'll entertain a
25 motion to propose these amendments to Section 321.321.

1 COMMISSIONER MARTIN: So moved.

2 CHAIRMAN STEEN: Motion made by Commissioner
3 Martin.

4 COMMISSIONER McNABB: Second.

5 CHAIRMAN STEEN: Seconded by Commissioner
6 McNabb.

7 COMMISSIONER KLEINSCHMIDT: Let me clarify.
8 These are going to publication. Right?

9 MS. BIJANKSY: Correct.

10 CHAIRMAN STEEN: No further discussion. All in
11 favor please signify by saying aye.

12 (A chorus of ayes.)

13 CHAIRMAN STEEN: Any opposed?

14 (No response.)

15 CHAIRMAN STEEN: That motion carries.

16 The next item is agenda item V.B.7. Discussion
17 and possible action to propose a new rule 303.44,
18 Oversight of Funds Generated by Pari-Mutuel Racing.

19 Devon, will you please present this item?

20 MS. BIJANKSY: Yes, sir.

21 This is a new rule that would implement the
22 agency's statutory authority in Section 6.092(e) of the
23 Racing Act to suspend or withhold funds from an entity
24 that fails to comply with certain reporting requirements.

25 The statutory authority is already there but it does

1 require us to adopt a rule.

2 CHAIRMAN STEEN: Commissioners, any questions?

3 (No response.)

4 CHAIRMAN STEEN: Robert, no one signed up to
5 speak?

6 MR. ELROD: No.

7 CHAIRMAN STEEN: I'll entertain a motion to
8 propose new rule 303.44, Oversight of Funds Generated by
9 Pari-Mutuel Racing.

10 COMMISSIONER MARTIN: So moved.

11 CHAIRMAN STEEN: Motion made by Commissioner
12 Martin.

13 COMMISSIONER MACH: Second.

14 CHAIRMAN STEEN: Seconded by Commissioner Mach.
15 Any further discussion?

16 (No response.)

17 CHAIRMAN STEEN: All in favor please signify by
18 saying aye.

19 (A chorus of ayes.)

20 CHAIRMAN STEEN: Any opposed?

21 (No response.)

22 CHAIRMAN STEEN: The motion carries.

23 We will not be entering into executive session
24 today.

25 The next meeting is scheduled for Tuesday,

1 March 19.

2 The time is now 11:04. With all business
3 concluded, we are now adjourned. Thank you.

4 (Whereupon, at 11:04 a.m., the meeting was
5 adjourned.)

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C E R T I F I C A T E

MEETING OF: Texas Racing Commission
LOCATION: Austin, Texas
DATE: January 29, 2019

I do hereby certify that the foregoing pages,
numbers 1 through 35, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Nancy H. King before the
Texas Racing Commission.

DATE: February 5, 2019

(Transcriber)

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Austin, Texas 78752