

TEXAS RACING COMMISSION

MEETING

10:30 a.m.
Wednesday,
February 14, 2024

Room E2.028
Texas Capitol Extension
1100 Congress Ave.
Austin, Texas 78701

COMMISSIONERS:

ROBERT C. PATE, Chair
CONNIE McNABB, D.V.M., Vice Chair
MARGARET MARTIN (absent)
ARIEL "A.J." WAIGHT
MICHAEL "MIKE" MOORE
REBECCA CONTRERAS

EX OFFICIO MEMBERS:

SID MILLER, Texas Department of Agriculture
(by SUSAN MALDONADO)
STEVEN P. MACH, Public Safety Commission

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- A. Under TEX. GOV'T CODE §551.071(1), the Commission may enter an executive session to seek the advice of its attorney regarding pending or contemplated litigation or regarding a settlement offer.
 - B. Under TEX. GOV'T CODE §551.071(2), the Commission may enter an executive session to discuss all matters identified in this agenda where the Commission seeks the advice of its attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas. This may include, but is not limited to, legal advice regarding the Open Meetings Act, the Administrative Procedures Act, and the Texas Racing Act.
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P R O C E E D I N G S

1
2 CHAIRMAN PATE: At 10:30 on the conference room
3 clock, Texas Racing Commission February meeting is called
4 to order.

5 Mary, would you please call the roll.

6 MS. WINSTON: Chairman Robert C. Pate?

7 CHAIRMAN PATE: Here.

8 MR. WINSTON: Vice Chair Dr. Connie McNabb?

9 COMMISSIONER McNABB: Here.

10 MS. WINSTON: Commissioner Michael Moore?

11 COMMISSIONER MOORE: Here.

12 MS. WINSTON: Commissioner Margaret Martin,
13 absent.

14 Commissioner A.J. Waight?

15 COMMISSIONER WAIGHT: Here.

16 MS. WINSTON: Commissioner Rebecca Contreras?

17 (No audible response.)

18 MS. WINSTON: Commissioner Steven Mach?

19 COMMISSIONER MACH: Here.

20 MS. WINSTON: And Commissioner Sid Miller or
21 designee Ms. Susan Maldonado?

22 MS. MALDONADO: Here, present.

23 MS. WINSTON: Right on time.

24 CHAIRMAN PATE: All right. Thank you, Mary.
25 Do we have a quorum?

1 MS. WINSTON: Chairman Pate, we do have a
2 quorum.

3 CHAIRMAN PATE: All right. Thank you very
4 much.

5 Again, welcome, all of y'all, to the meeting.
6 I'm going to make an announcement. Currently, the Texas
7 Racing Commission has 10 employees who are veterans with
8 more than 131 combined years of experience. This doesn't
9 count the service of our contract support, as well as the
10 veterans serving on the Commission, such as Dr. McNabb and
11 Commissioner Waight.

12 Additionally, three members of our staff
13 continue to actively with the Texas Guard -- in addition
14 to Chief of Staff Phil Fountain, who serves in the Texas
15 Air National Guard, Jerry Kovar, our Special Services
16 Chief, serves in the Texas State Guard. And Greg Reyes,
17 an HR Specialist, serves in the Texas Army National Guard.

18 The ESGR -- it's the Employer Support of the
19 Guard and Reserve -- is a Department of Defense office.
20 It was established in 1972 to promote cooperation and
21 understanding between Reserve component service members
22 and their civilian employers, and to assist in the
23 resolution of conflicts arising from an employee's
24 military commitment.

25 The first in the ESGR series of awards is the

1 Patriot Award. An employee serving in the National Guard
2 or Reserve, or the spouse of a Guard or Reserve member may
3 nominate individuals, supervisors, and bosses for support
4 provided directly to the nominating service member or his
5 or her family. The Patriot Award reflects the efforts
6 made to support citizen warriors through a wide range of
7 measures, including flexible schedules, time off prior to
8 or after deployment, caring for families, and granting
9 leaves of absence, if needed.

10 There is an award to be presented today by Ms.
11 Raette Smith Hearn. She is a former 30-year State of
12 Texas employee having worked at the Office of the Attorney
13 General, the Texas Department of Agriculture, the
14 Comptroller of Public Accounts, and the Texas Health and
15 Human Services Commission. Within the U.S. Department of
16 Defense Employer Support of the Guard and Reserve, Raette
17 is the United States Central Region Employer Outreach
18 Advisor appointed by the National ESGR Chair, the Texas
19 Employer Outreach Director, and an ombudsman.

20 She has volunteered with ESGR for 15 years.
21 She is also on the Board of Directors of the South
22 Southwest American Cancer Society, Incorporated,
23 headquartered in San Antonio, and on the Board of the
24 Austin Chapter of the Alzheimer's Association, and
25 Treasurer of the Sisters Network, Austin. She is the wife

1 of a Vietnam era Marine, and the daughter of an Army
2 soldier.

3 Ms. Hearn, you have the floor.

4 (Applause.)

5 MS. HEARN: Good morning, Chair and
6 Commissioners. I am absolutely excited to be here this
7 morning because, as the Texas Employer Outreach Director,
8 I rarely get an opportunity to find the level of
9 enthusiasm that I have found with the Texas Racing
10 Commission.

11 I am here to present an award to Amy Fordham
12 Cook. If you could join me here, please, ma'am.

13 (Applause.)

14 MS. HEARN: As she's coming, I will tell you
15 that your Chief of Staff nominated you in what is
16 considered a very progressive awards program. It starts
17 with the individual director and manager. And then it
18 goes all the way to the Freedom Award, potentially, at the
19 Pentagon.

20 But I've spoken to several of your staff
21 members, and they all say the same thing about you,
22 General -- that you are an incredible leader, that you
23 understand because you've been there, and that you provide
24 all of the necessary support that all they have to do is
25 worry about their annual training or their deployment.

1 And they don't have to consider the fact that they would
2 be ever be dismissed for being a civilian service member.

3

4 So, for that, we want to award you today. And
5 I'd like to read you what this award says: "Office of the
6 Secretary of Defense Employer Support of the Guard and
7 Reserve recognizes Amy Fordham Cook, Texas Racing
8 Commission, as a patriotic employer for contributing to
9 national security and protecting liberty and freedom by
10 supporting employee participation in America's National
11 Guard and Reserve Force." It's signed by my National
12 Director, Judge Ron Bogle and Lloyd Austin.

13 So, General Cook, I'd like to present this to
14 you. Listen, this is okay from an HR perspective. I'm
15 going to do anything weird --

16 (Laughter.)

17 MS. HEARN: -- present you with this pin as a
18 symbol of you being an excellent employer.

19 And I will tell you, I've talked to people all
20 across your agency. They admire you. They respect you.
21 And they think you are an exceptional leader.

22 So thank you for making my job better.

23 MS. COOK: Thank you so much.

24 (Applause.)

25 CHAIRMAN PATE: Good job.

1 All right. Please stand for the Pledge of
2 Allegiance.

3 (The Pledge of Allegiance was recited.)

4 CHAIRMAN PATE: Join us also in the Texas
5 Pledge.

6 (The Texas Pledge was recited.)

7 CHAIRMAN PATE: Again, welcome to the February
8 meeting of the Racing Commission. Today, we do have
9 several critical items that we're going to be discussing.

10

11 MALE VOICE: Invocation.

12 CHAIRMAN PATE: Oh, I'm sorry. I didn't --
13 we'll take the invocation today.

14 I apologize, Reverend.

15 MR. BINGHAM: We could always use prayer,
16 correct?

17 CHAIRMAN PATE: Thank you, Mr. Bingham. I
18 appreciate it.

19 MR. BINGHAM: You're welcome. Thank you for
20 the opportunity.

21 So today marks more than just a holiday of
22 Valentine's Day. Today in the Christian calendar marks
23 Ash Wednesday, 40 days before we celebrate the death of
24 Jesus Christ at Easter. They take 40 days to commemorate
25 the 40 days that Jesus was in the desert preparing for

1 ministry.

2 And the Church has used it historically as a
3 time of introspection, reflection and change. The
4 Scripture says in Isaiah -- it says in 2 Chronicles, My
5 people are called by my name shall humble themselves to
6 pray. And I'll hear from Heaven. I'll forgive their sin
7 and heal their land. And I think our community needs some
8 healing.

9 So, if Christianity is your active faith,
10 wonderful. Even if it's not, taking time in the next 40
11 days to do introspection and reflection is a good thing.
12 So, let's go before the throne.

13 Father God, we thank you for the opportunity to
14 come here as a community. We pray for the Commission,
15 that you give them wisdom and direction. We pray for each
16 participant, for the tracks, for the horsemen, for the
17 horsemen's organizations -- that you give us a sense of
18 unity.

19 If there's any discord or disagreement, Father,
20 help us to come into unity. And we pray, Father, that
21 when people see us, they see your presence first.

22 In the name of God, who created the heavens and
23 the earth and the horse that drives us all together, we
24 pray. Amen.

25 (Chorus of amens.)

1 CHAIRMAN PATE: Well, again, today we have
2 several critical topics related to the integrity and
3 safety of horse racing, while we also take continuing
4 steps to address the winding down of the greyhound racing
5 in our state.

6 Dr. McNabb, do you have some remarks today?

7 COMMISSIONER McNABB: Yes, sir. Thank you,
8 Chairman.

9 Two topics -- one is within the last couple of
10 weeks, Governor Abbott and Ms. Venable from the
11 Appointment Secretary had a gathering of anyone who has
12 been appointed by the Governor to come in. Those of us
13 who are military, we would call it a commander calling a
14 unit mission brief.

15 So, essentially, it's everybody, let's get on
16 the same page. Let's hear from the Governor and his key
17 staff. And we did.

18 The key message that we heard, not only from
19 the Governor -- and the first thing out of his mouth --
20 but we heard it repeated again and again and again -- was
21 follow the law. Yes, sir. Yes, sir. We shall do that.

22 As we take a look at that, and then apply that
23 to what we're doing -- and especially with the Rules
24 Committee -- and those of you who know me know that I'm a
25 veterinarian since 1981. I'm the daughter of a physician

1 who graduated in 1936.

2 So going through vet school, sat down with my
3 surgeon daddy and said, Okay. Give me the secrets. And
4 he said, Here they are.

5 First, do no harm. Time is trauma. Get in,
6 get out. And don't cut what you can't see.

7 And I listened to what the Governor had to say,
8 and then the needs that we're trying to be responsive --
9 so on the Rules Committee, are there things that we need
10 to change? You bet. We're overdue on some things, and
11 we're going as fast as we can.

12 So that's the time is trauma. Get in, get out.
13 And I get it.

14 But the other part is first, do no harm. One
15 of the other things we heard in very plain English was
16 don't screw up. And that referenced back to the other
17 piece, follow the law.

18 But then, don't cut what you can't see. And
19 what this gets into is as we are taking a look at our
20 rules, all of our rules have got to be consistent with the
21 Racing Act. And then, you know, down into that whole
22 quagmire -- and that's why we have two really smart
23 lawyers.

24 So if we're going to change something, they
25 have to do the deep dive and get down into all of that and

1 make sure that, number one, we are not violating anything
2 in statute, or do we actually have the authority to do
3 what we're doing?

4 So, from the Governor, follow the law. Yea,
5 verily. That's what we're going to do. And I certainly
6 know that's what he gets up and says every morning being a
7 judge, and it's an honor to work beside him.

8 But we're working as fast as we can. This is
9 not a fast thing. You know, there's also timelines.

10 But we have to make sure that when we make a
11 change, that we are doing it right. We've got great
12 lawyers. We're doing all we can.

13 But you know, time is trauma. I get it. But
14 we have to do it right.

15 Second piece of this is an appeal for some help
16 just within the industry. As you know, as we're going
17 into the racing season, we've got a great veterinary
18 staff. But we are still looking for veterinarians who are
19 interested in working part-time or contract.

20 There are schools out there who teach vet
21 techs. We've got two vet schools in this state. We have
22 retired veterinarians. There's a whole covey of Army vets
23 floating around.

24 If you all know people who would be interested
25 in being contract vets, this is not that hard a job. If

1 someone is an educational piece, just for themselves to
2 tune up, there is no better job where you get to see
3 thousands of horses. And it takes the first 10,000 before
4 it's anything more than a blur.

5 But we are looking for people with Texas
6 licenses who can meet our requirements for licensure. And
7 we're not necessarily looking for full-timers. You know,
8 we'll consider. But we are looking for people who are
9 qualified who want to help.

10 You all are the industry. You're out there
11 interfacing with vets. I am more than happy to be a point
12 of contact. Steve Bond and Amy are going to be the
13 decision-makers.

14 But I have a little bit more time. And this
15 will double my pay at least. So, that's -- two times zero
16 is zero.

17 But if you can help us, we want to make sure
18 that we have the veterinarians we need to go out there,
19 take care of the horses, and also, make things happen. I
20 appreciate it.

21 Thank you, sir.

22 CHAIRMAN PATE: All right. Again, the next
23 Agenda item is 4C. The Chair opens the floor to any
24 Commissioner who wishes to make any remarks.

25 Are there any? Any further remarks?

1 (No response.)

2 CHAIRMAN PATE: Now the next Agenda item, 5,
3 public comments.

4 Mary, has anyone signed up for public comments?

5 MS. WINSTON: Not for this Agenda item. Later,
6 Judge.

7 CHAIRMAN PATE: All right. Thank you very
8 much.

9 On to staff reports. We now move to Agenda
10 item 6A and the Executive Director's report.

11 Director Cook, please give us the report. And
12 congratulations.

13 MS. COOK: Good morning, ladies and gentlemen.
14 And happy Valentine's Day. I have four updates for you
15 today.

16 First, I'd like to continue to acknowledge the
17 amazing work of the employees of the Texas Racing
18 Commission and welcome the newest member of the team
19 today, Mr. David Holmes.

20 David, if you'd stand up.

21 David joined us on February 1 as the new Deputy
22 General Counsel. I think many of you have met Mary
23 Winston. Mary is acting as our interim General Counsel
24 right now. And they're both doing a really great job.
25 David, in the short time that he's been with us, has

1 already demonstrated that his talents will benefit not
2 only the Agency, but the entire racing community.

3 Second, I'd like to call your attention to the
4 results we've begun to realize with the veterinary team as
5 a result of thermal imaging screening tests that we're
6 doing as we've tried to modernize our veterinary program.

7 Particularly in the period where we observe official
8 works during training, which is our focus this year to
9 prevent injuries, as well as during pre-race exams.

10 We have four recent success stories that are
11 displayed on a poster board right here. I know that the
12 audience can't necessarily see the injuries that we caught
13 before the horse actually entered live racing and
14 potentially had a severe injury.

15 But what you see in the upper left is on
16 November 16, 2023. After observing lameness indicators
17 during workouts, Texas Racing Commission veterinarians
18 used the thermal imager to pinpoint carpal effusion and
19 noticed a distinct white spot on the image reader. Follow
20 up radiographs confirmed a carpal chip fracture, and the
21 horse was sent for surgery by the trainer, who will be
22 retiring that horse.

23 On January 28, 2024, the trainer had just
24 purchased the horse three weeks before races and didn't
25 know the full medical history. Veterinarians noted the

1 right hind leg in lameness while exiting the training
2 track.

3 The thermal imager -- and this is the image
4 that's in the upper right on the poster board -- showed an
5 acute lack of circulation -- the purple in that leg that
6 you see on the left. And the horse was ultimately
7 diagnosed with equine protozoal myeloencephalitis, if I
8 said correctly -- or EPM.

9 It is not a contagious disease, but it does
10 affect the brain and spinal cord. And the horse had to be
11 placed on a series of medication. If you can imagine if
12 we hadn't know that that horse's leg was having that
13 circulatory problem and had gone out for a live race,
14 potentially it would have had a very serious injury or
15 accident for the horse or riders.

16 On February 7, 2024, the horse in the lower
17 left was observed by the Commission veterinarians as being
18 mildly lame while exiting the training track. Thermal
19 imagery revealed that a carpal chip fracture, the white
20 spot that you see, was affecting the horse. And the horse
21 was immediately placed on a vet list for further
22 observation and treatment.

23 On February 10, 2024, hours before the
24 scheduled race, the trainer brought the horse to the State
25 veterinarian after the jockey said, I think something may

1 be wrong with the horse. Thermal imagery that we took
2 indicated extreme inflammation in both fetlocks. And so,
3 the horse was immediately placed on the veterinary list
4 for further monitoring.

5 So we just celebrate the fact that there has
6 been such great achievement, really, in a short period of
7 time from the legislative commission and industry
8 investment in the Agency, the efforts that we've made to
9 recruit people, as Dr. McNabb mentioned. So we want to
10 continue to grow the veterinary team and grow the sort of
11 capability that we have to prevent injuries.

12 So, I mean, there will probably never be a time
13 where we won't have any injuries to horse and rider. But
14 we want to prevent as many as possible so that we can do a
15 great job for the State of Texas.

16 Third, I'd like to draw your attention to the
17 letter issued on February 6, 2024, on page 4 through 35 of
18 the meeting materials that you have in your binders. This
19 letter documents several items in terms of the
20 communication to the Texas Greyhound Association.

21 First, an invitation to appear at the April 10
22 Commission meeting; a request for full audit of funds and
23 expenditures on hand from 1 September 2019 to present; a
24 request for the TGA Board to voluntarily return accredited
25 Texas Bred funds that they may be holding on to to the

1 Agency so we can return to the Comptroller; a request for
2 the TGA Board to voluntarily contact the licensed horse
3 tracks and notify them in writing that they do not have to
4 continue sending cross-species simulcast payments.

5 A clear statement for the record that the
6 Commission did not approve the declaratory judgment
7 action, as was discussed in the December Commission
8 meeting, nor did the e-mail from the former Agency General
9 Counsel, which was a staff assessment, constitute a
10 decision or approval on behalf of the Commission for a
11 court-ordered distribution of funds to TGA members.

12 Although our statute does not have a winding
13 down provision for the Texas Greyhound industry, the
14 industry can and should partner with the Commission,
15 particularly the Agency staff, to fully account for all
16 funds and develop solutions to resolve outstanding
17 matters. And we look forward to doing that.

18 Fourth, on pages 33 through 43 of your meeting
19 materials, you'll find a request for an Attorney General
20 opinion that I sent to the Attorney General's Office on
21 February 9, along with our current interagency agreement
22 with Texas A&M Veterinary Diagnostic Lab.

23 Let me just say as an aside, I'm a proud Aggie,
24 graduated class of 2023 with my Master of Laws in Risk
25 Management from A&M. I'm very proud of the relationship

1 we have with Texas A&M, very much want that relationship
2 to continue.

3 I think we are having some communication
4 challenges right now, though, about the future of that
5 contract. And I'm certain we'll work through those. So,
6 in the meeting materials, you'll find two letters written
7 to Texas A&M Chancellor, John Sharp, inviting him or his
8 representative to attend our meeting today to discuss the
9 future of our TVMDL interagency agreement that is the
10 center of our drug testing program. And also, a letter
11 that we wrote before that outlining our concerns
12 concerning any discussion that they might be having
13 internally about terminating our longstanding 32-year
14 relationship.

15 It's really important to us that if there is
16 some sort of concern there at TMVDL that we have more
17 runway to create other solutions. A short-term decision
18 that they might make at the end of this fiscal year --
19 which is only a few shorts months away -- would really
20 impair the racing industry's ability and the Agency's
21 ability to perform its regulatory mission.

22 So it's my hope that TVMDL will remain our
23 testing laboratory. They're known as the premier lab
24 among racing labs in the nation after talking to some
25 national industry leaders. And I think that, just like I

1 decided we were going to be the best racing commission in
2 America, I've challenged them and spoken to the director
3 there a couple times and said, We need to decide. We're
4 going to be premier state for horse racing in the nation,
5 and we need to have the premier lab with us as part of
6 that mission.

7 So, I think that's something that we can all do
8 together. Anything is possible when we all work together.

9 In any event, my staff recommendation will be to continue
10 the current interagency agreement and request approval
11 from the Commission to update that agreement and extend it
12 through the end of 2025, no later than the June 2025
13 Commission meeting. And then that will provide us
14 opportunities, if there has to be a change in the future,
15 to develop those solutions.

16 And that concludes my report for this
17 Commission.

18 CHAIRMAN PATE: Amy, one thing -- A&M has
19 actually been appropriated funds through the full biennium
20 2025 to operate this lab.

21 MS. COOK: That is correct. And that's based
22 on the estimate of testing 22,000 racehorses.

23 CHAIRMAN PATE: Okay. Amy, are there
24 alternatives in the state to A&M doing this work?

25 MS. COOK: The only alternative that I'm aware

1 of is potentially reaching out to Texas Tech University
2 that now has a veterinary school. And they do have a
3 director of analytical chemistry, having done a little
4 research. Interestingly, they, I think, have some
5 capabilities at present, but could build on those.

6 But we'd certainly like to see A&M maintain our
7 relationship. But why not give the other veterinary
8 school in the state an opportunity to be part of this as
9 well? Potentially, we could have two great testing
10 labs --

11 CHAIRMAN PATE: Thank you.

12 MS. COOK: -- for splits and primaries.

13 CHAIRMAN PATE: Any other questions,
14 Commissioners?

15 (No response.)

16 CHAIRMAN PATE: All right. Thank you, Director
17 Cook.

18 We now move on to Agenda item 7A, the Texas A&M
19 Veterinary Diagnostic Laboratory interagency agreement.
20 Is anyone here on behalf of Chancellor Sharp or the Texas
21 A&M system?

22 (No response.)

23 CHAIRMAN PATE: Apparently not. In a prior
24 life, I would ask the bailiff to call the name three times
25 at the door. I want to inform those in attendance that

1 apparently A&M has declined our invitation to have a
2 public discussion on the crucial role that the
3 laboratory, that they have jurisdiction and supervision
4 over, performs as prescribed in our statute over the last
5 32 years.

6 Commissioners, do y'all have any questions?

7 COMMISSIONER McNABB: Not so much a question,
8 but a comment. This is a highly refined art form in some
9 aspects. But the actual analytic processes are not
10 anything that are so unique. I mean, it's a matter of
11 using the new technology and the quantitative and
12 qualitative analysis.

13 So the part that comes in is -- whether or not
14 TVMDL or whoever we use -- there needs to be cross talk
15 with other labs, not only in the country, but around the
16 world. Because the evildoers like to play Mr. Wizard and
17 add things on. And so that sharing of knowledge across
18 the board in that very small racing regulatory and racing
19 diagnostic lab is important.

20 So I'm not saying that TVMDL is the only place,
21 but they have had a very good cross talk relationship.
22 They've been one of the gold standards on making sure that
23 their processes are good. They've been part of RMTC,
24 which is that group.

25 Whichever way we go, we just want to make sure

1 that, indeed, Texas, whatever lab we're in, we either
2 maintain or we see to it that we have that cross talk in
3 the industry. Because we don't need to be the soft state.

4 We don't want to be the hardest state, but we want to be
5 cleanest one. And we want to make sure that we have that
6 good cross talk within that very small community.

7 CHAIRMAN PATE: Any other comments,
8 Commissioners?

9 (No response.)

10 CHAIRMAN PATE: Mary, has anybody signed up for
11 public comment on this Agenda item?

12 MS. WINSTON: Chairman Pate, no one signed up
13 for public comment for this Agenda item.

14 CHAIRMAN PATE: Thank you.

15 All right. We now move to Agenda item 8A,
16 proceedings on the horse industry escrow account.

17 Dinorah, would you please give us your report?

18 MS. CHIU: Thank you, Chairman.

19 Good morning, Commissioners. Good morning,
20 ladies and gentlemen. For the record, my name is Dinorah
21 Chiu, Chief Financial Officer for the Agency. I'm here
22 this morning to present the HIEA events.

23 We have 10 events for your review and approval.

24 Usually, the breeders send these applications between
25 December and now. That's why we have 10.

1 So, let's start. And also, if you have any
2 questions, the breeders' representatives are here. So,
3 let's start.

4 The Texas Quarter Horse Association submitted
5 five applications for events to further the industry. The
6 first event is the 2024 Quarter Horse Meet at Retama Park
7 for ATB owners, breeders, and stallion owners. The dates
8 for this event is June 27 to August 17, 2024. The amount
9 requested is \$353,000.

10 The second event is the Texas Summer Showdown.
11 The event date is July 26, 2024. The amount requested,
12 \$240,000.

13 The third event is the 2024 Retama Stakes
14 Program. Event dates are from June 27 to August 17. The
15 amount requested, \$325,000.

16 Fourth event is the 2024 Quarter Horse Meet at
17 Sam Houston Race Park for ATB owners, breeders, and
18 stallion owners awards. Event dates are from April 19 to
19 June 15, 2024. Amount requested, \$505,000.

20 The last event is the 2024 Sam Houston Race
21 Park Stakes. Dates of the event is April 19 to June 15,
22 2024. The Texas Quarter Horse Association is requesting
23 \$270,000.

24 The staff recommend approval for the five
25 events pending availability of funds.

1 CHAIRMAN PATE: All right.

2 MS. CHIU: This is for the Quarter Horse
3 Association only.

4 CHAIRMAN PATE: Okay. Well, go ahead and do
5 your --

6 MS. CHIU: Okay. Perfect.

7 Next item for your approval will be the three
8 HIEA events, applications submitted by the Texas Arabian
9 Breeders Association. They are requesting \$67,500 for the
10 event, Arabian Six Shooter at Sam Houston Race Park 2024.

11 Event dates are March 8 and 9.

12 The second event is the Arabian Yellow Rose at
13 Sam Houston Race Park 2024. The Arabian breeders are
14 requesting \$68,000. And the last event for the Texas
15 Arabian will be the Texas Arabian Stallion Classic
16 presented by Lip Chip. The requested amount is \$73,500.

17 The last events will be for the Paint Horse
18 Breeders Association. They are requesting \$138,000 for
19 the 2024 APHA World Championship Show. Dates of the show
20 are from June 21 through July 7, 2024.

21 The second event is the Cowgirl Gatherings.
22 Date of the event will be May 9 to May 12, 2024. The
23 Paint Breeders are requesting \$130,000.

24 The staff recommend approval for all the
25 events, Chairman.

1 CHAIRMAN PATE: All right.

2 Commissioners, do you have any questions on
3 staff recommendations?

4 (No response.)

5 CHAIRMAN PATE: Mary, has anybody signed up for
6 public comment on these items?

7 MS. WINSTON: Chairman Pate, we have no one for
8 public comment.

9 CHAIRMAN PATE: If there's no further
10 discussion or public comment, the Chair will now entertain
11 a motion on staff's recommendation to approve the request
12 from the Texas Arabian Breeders Association, the Texas
13 Paint Horse Breeders Association, and the Texas Quarter
14 Horse Association.

15 COMMISSIONER McNABB: So moved.

16 COMMISSIONER MACH: Second.

17 CHAIRMAN PATE: Okay. Motion by McNabb.
18 Seconded by Mach.

19 Any further discussion?

20 (No response.)

21 CHAIRMAN PATE: Hearing none, all those in
22 favor, signify by saying aye.

23 (A chorus of ayes.)

24 CHAIRMAN PATE: Any opposed?

25 (No response.)

1 CHAIRMAN PATE: All right. The motion carries.

2 MS. CHIU: Thank you, Commissioners.

3 CHAIRMAN PATE: We now move to Agenda item 9A,
4 discussion and possible action to adopt proposed rule
5 amendments.

6 Director Cook, please present this item.

7 MS. COOK: Ladies and gentlemen, on this Agenda
8 item, you might recall I first brought up the proposed
9 amendments in October of 2023. We had not had the ability
10 to have a Rules Committee meeting before we proposed them.

11 So, immediately following the Commission meeting in
12 October, we had a Rules Committee meeting October 30,
13 2023.

14 These rule amendments were focused on the
15 integrity of our licensing program, the alignment of the
16 licensing program rules with the statutory changes, and
17 the safety of training facility participants. And they
18 have been also reviewed by the Governor's Office. They
19 were posted in the *Texas Register* for 30 days, with no
20 public comment received other than two letters of support
21 from industry representatives on the e-wagering rule
22 modifications that were focused on technology
23 modernization.

24 The industry does have resource witnesses here
25 today, if anyone has questions on the e-wagering rule

1 amendments themselves. And based on the fact that we've
2 been through a process we seem to be comfortable after
3 making the adjustments and having public discussions on
4 these rules, the staff recommends that the Commission
5 adopt the proposed rules.

6 If you adopt them today, they'll go back into
7 the *Texas Register* for a period of 20 days, and likely be
8 effective around April 1 of 2024.

9 CHAIRMAN PATE: All right. This is just with
10 9A.

11 Mary, has anybody signed up for public comment
12 on these Agenda items?

13 MS. WINSTON: We do have one public commenter
14 for Agenda item 9, concerning e-wagering.

15 CHAIRMAN PATE: All right. Before that,
16 Commissioners, are there any Commissioners that have any
17 questions?

18 COMMISSIONER McNABB: No.

19 CHAIRMAN PATE: All right. Who's that? Who is
20 our public commenter?

21 MS. WINSTON: Rob Kohler.

22 CHAIRMAN PATE: All right. Come on up. If
23 you'd state your name, please, when you approach.

24 MR. KOHLER: Yes, sir.

25 CHAIRMAN PATE: All right. Thank you.

1 MR. KOHLER: My name is Rob Kohler. I'm here
2 representing the Christian Life Commission of the Baptist
3 General Convention of Texas. I want to thank you for this
4 opportunity to make some comments. We would encourage the
5 Board not to adopt allowing the telephone wagering.

6 We have a long history with the Racing
7 Commission, and I hope this isn't considered adversarial.

8 This truly -- I would like to categorize this as friends
9 giving friendly advice. There has been a lot that's
10 happened across the state these last couple of years. My
11 comments -- it's not lost on me that somebody can sit at
12 Gillespie County and place a -- buy a lottery ticket over
13 their phone.

14 That rulemaking process -- I'd like to thank
15 you for being very transparent. I don't think it followed
16 there what I would characterize as kind of a rabbit trail
17 to rulemaking. So I appreciate that.

18 It's also not lost on me that a person can go
19 to the Cowboys stadium, buy a raffle over the phone. Now,
20 the difference between those two is -- and we fought the
21 Cowboys and those sports teams on it at the legislature.
22 But they went through the legislature and got that rule
23 changed.

24 As I mentioned earlier, and as you may have
25 read, we strongly believe that the Commission just has no

1 standing whatsoever justifying through their
2 rulemaking that you can purchase a lottery ticket over the
3 phone. So we would encourage you to take a couple of
4 steps back. The session's right around the corner.

5 The statute's very clear. In 2027.0013,
6 prohibit racetrack associations from accepting a wager
7 made by telephone. And for those sitting in the room that
8 know me or know the organization, I think we've proved
9 that we want and support --

10 MS. WINSTON: One minute.

11 CHAIRMAN PATE: You have three minutes total.

12 MR. KOHLER: Oh, I'm sorry.

13 Horsemen in this state. We've very proud of
14 the escrow account that was set up. We participated in
15 that process.

16 So I'll conclude my remarks. And I appreciate
17 the opportunity.

18 CHAIRMAN PATE: All right. Just -- thank you
19 very much.

20 I have questions of you, Amy, if you could come
21 back up.

22 MR. KOHLER: Thank you.

23 CHAIRMAN PATE: Mr. Kohler mentioned lottery
24 tickets. We're not talking about buying lottery tickets,
25 are we?

1 MS. COOK: No, Judge Pate.

2 CHAIRMAN PATE: All right. And so, this has to
3 do -- I just want to make sure I understand. This has to
4 do with the modernization, basically, of the existing
5 pari-mutuel betting within the track? Geo-limited to the
6 track? Is that correct?

7 MS. COOK: That's correct. Our statute limits
8 the wagering to the enclosure of a licensed racetrack.
9 So, there is a closed loop subscriber system. It's
10 described -- we're adopting a definition to make it more
11 definitive and modernizing language to make sure that we
12 don't go outside the statute.

13 We adopted a draft, a definition from Oregon.
14 And these -- I've worked closely with the industry. I
15 think that when we talk about the economic engine that
16 horse racing should be in the state, when you have
17 mobility issues with folks at a track, the ability to
18 actually use technology that allows them not to have to
19 walk over to a teller window, within that closed loop
20 subscriber system.

21 It's basically an internet at the track without
22 the signal leaving the licensed fenced area of the
23 racetrack. That's what we're talking about. Many of our
24 statute and rules actually talk about doing things on
25 paper, and most of this is no longer done on paper.

1 Very sensitive to what Mr. Kohler said. Last
2 session being my first session, I followed very closely
3 some of the other agencies, Department of Public Safety,
4 the Lottery Commission -- who there were some concerns
5 around rulemaking to make sure that we did not have those
6 challenges. But I understand his concern.

7 I do think -- and we do have industry resource
8 witnesses -- Mr. Brian Pettigrew, Mr. Tommy Azopardi, and
9 others who are here that can also talk to that if anybody
10 would like to hear from them.

11 But the main protection that we have in this
12 whole process that I want to make sure the Commission
13 knows, the industry knows, that Mr. Kohler knows, is any
14 technology changes, any e-wagering plan that is at a
15 licensed racetrack for a season has to be approved by me.

16 So the statute and the rules provide the framework that
17 we need to work in and stay aligned with, but there is an
18 actual e-wagering plan that is written in detail that says
19 this is what we will do to make sure that we don't have a
20 problem with going outside.

21 And actually, during the Sam Houston meet --
22 the one that's currently going on -- I actually went down
23 there myself and walked through the pieces of the
24 e-wagering plan because we didn't have this level of
25 understanding of it, really, at the Commission until this

1 rules were being modernized. I wanted to make sure that I
2 could assure you that we would stay within the bounds of
3 our statute because I had seen it myself.

4 So I'm comfortable that we're staying within
5 the statutory framework. But of course, it's your
6 decision on moving forward.

7 CHAIRMAN PATE: Are the bets that are being
8 played, if you're on this closed system, is that only on
9 bets that are occurring at the racetrack?

10 MS. COOK: That's correct.

11 CHAIRMAN PATE: So, it's not simulcast betting?

12 MS. COOK: That's right.

13 CHAIRMAN PATE: Okay. So, just on-premises
14 betting. So, for example, if a person -- if the tracks
15 had simultaneous racing going on, you couldn't place a bet
16 at Lone Star from Sam Houston?

17 MS. COOK: You can if you're at the track. You
18 can on the imports from the other tracks within the state.

19 Or are there are -- let me reframe that a little better.

20

21 So if it's Kentucky Derby Day at Sam Houston,
22 for example, people can go there to watch the Kentucky
23 Derby and they can bet on races. But they can't bet on
24 races -- I'm not going to say this well. Really, Texans
25 are not allowed to bet in an interstate commerce fashion.

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CHAIRMAN PATE: Correct.

MS. COOK: So there has to be limits to that. So, the systems in the tote contract, where there's an amendment to the tote agreement that you're going to approve today -- that tote contract protects us from having crossed that line to go into interstate commerce for betting.

CHAIRMAN PATE: Okay.

MS. COOK: I'm not a technology expert. So, you might want to have an industry person --

CHAIRMAN PATE: That's with respect to thoroughbreds.

MS. COOK: Right.

CHAIRMAN PATE: It'd be different for quarterhorses or other --

MS. COOK: Right.

CHAIRMAN PATE: -- breeds, correct?

MS. COOK: Right.

CHAIRMAN PATE: And different that those bets could be placed.

MS. COOK: Right. But the bets can only be placed physically. You have to physically be at the track, although you can be a phone or a tablet at the track.

1 And some --

2 CHAIRMAN PATE: So, it's --

3 MS. COOK: -- some tracks right now have a
4 mobile app. But it just is very old technology in the way
5 it's described. So we're talking about --

6 CHAIRMAN PATE: So, it's no different being at
7 the track, except that you're doing it through your mobile
8 device.

9 MS. COOK: Right. So if you're
10 wheelchair-bound, for example, you don't have to go to the
11 teller window to place the bet physically. You can
12 actually do it if you were inside the licensed -- you
13 can't do it in the parking lot. You have to be inside
14 that enclosed area of the racetrack to place that bet.

15 CHAIRMAN PATE: Okay.

16 COMMISSIONER MACH: Because you're on wi-fi?
17 Or what?

18 MS. COOK: You're on a closed loop intranet --

19 COMMISSIONER MACH: Okay.

20 MS. COOK: -- where you can't leave that. You
21 can't place the bet. The system locks you out.

22 I actually had a demonstration when I was in
23 Houston. So it would be like if you were on an intranet
24 here at the Capitol. If you left the intranet, you
25 couldn't place the bet. It would block you.

1 COMMISSIONER MACH: Is it possible for somebody
2 to circumvent it by having a device on site, and then be
3 transmitting --

4 MS. COOK: No. The contracts that you approved
5 prohibit -- they can lose their license with us. The
6 racetrack can have its license jeopardized if they don't
7 set up the architecture, meaning the totalizer system
8 contract, the security of the employees managing the tote
9 system -- which we approved all those licenses and all
10 that access.

11 So you can't really manipulate it in the
12 architecture that's set up.

13 COMMISSIONER MACH: Are you comfortable with
14 that? Or are you certain of that?

15 MS. COOK: I'm comfortable. I'm not going to
16 say I'm a pari-mutuel wagering expert at two years into
17 the job. But I am going to tell you I have seen it myself
18 and I'm comfortable that we have the architecture.

19 CHAIRMAN PATE: We'll ask Bryan Pettigrew to
20 come up and --

21 MS. COOK: Yeah, Bryan?

22 CHAIRMAN PATE: -- give us his view.

23 Put you on the spot, Bryan.

24 MR. PETTIGREW: So, and the Texas Racing
25 Commission in the past has checked our signal, our wi-fi,

1 and made sure it is just for the property. And the
2 Commission had gone off property, tested it, basically
3 across the street. And it's not -- you can't access our
4 wi-fi across the street. So, you have to be within the
5 enclosure.

6 COMMISSIONER McNABB: So even though someone
7 may be using the same phone that they have at home, they
8 can only place a bet on this e-wagering system within the
9 geographic confines of the track?

10 MR. PETTIGREW: Correct.

11 COMMISSIONER McNABB: So, because I can
12 certainly appreciate -- you know, there are folks out
13 there that do have problems with gambling and it does
14 create an issue. So we don't want people at home
15 following their addiction. But this is people who come to
16 the track. The bets that they can place are the same as
17 if they walked over to the window.

18 MR. PETTIGREW: Correct.

19 COMMISSIONER McNABB: We are just accommodating
20 people who have mobility issues or they are with a group
21 of people. But it is not anything that they can do once
22 they leave the defined perimeter of the track, even though
23 they're using their telephone. It's not calling in and
24 placing a bet.

25 MR. PETTIGREW: Correct. They have to be on

1 the wi-fi at the track.

2 COMMISSIONER McNABB: Right. So, it's a
3 different system, even though the device looks the same.
4 It doesn't work once you're --

5 MR. PETTIGREW: Right.

6 COMMISSIONER McNABB: It doesn't work in the
7 system as soon as you're outside the geographic bounds.

8 MR. PETTIGREW: Correct.

9 COMMISSIONER McNABB: And so that is your
10 safeguard to help protect people who may not be able to
11 control their gambling habit. And we don't need them
12 gambling away their paycheck from home.

13 MR. PETTIGREW: Correct.

14 CHAIRMAN PATE: Any other questions,
15 Commissioners?

16 COMMISSIONER MACH: I'm comfortable with the
17 notion of it being for the mobility purposes of betting on
18 site. I think that's something that's appropriate. I
19 don't want this to be the door opening to that betting
20 occurring outside the premises, not only because of the
21 statute, but because of where we want to be as a
22 Commission.

23 That's not really what we're looking at. And I
24 think it's important for the industry to realize this.
25 From my standpoint, it's an accommodation on the mobility

1 issue. It's not expanding the opportunity to make bets.

2 MR. PETTIGREW: I agree with you on that. This
3 is my understanding as well.

4 CHAIRMAN PATE: So, Amy -- and then, these
5 proposed rules have been vetted by whom? Did they go
6 through the -- I know they came out of our office. Did
7 they go through -- did you give some to Gabe over at the
8 Governor's Office?

9 MS. COOK: Yes, Gabe's reviewed them and
10 cleared them.

11 CHAIRMAN PATE: Okay. All right.

12 Anything else? Any questions? Any further
13 questions?

14 (No response.)

15 COMMISSIONER WAIGHT: I'm not real comfortable
16 with this. I'm not sure that -- we need to maybe take a
17 break here and talk about the intent. What are we really
18 trying to accomplish here.

19 Are we trying to create more income so people
20 can gamble more at the tracks? I'm just a little confused
21 with that. I thought our primary purpose was the industry
22 and the horses and the riders, and not gambling -- but I
23 know that's part of it.

24 But how far do we take this? How far do we
25 expand it? And we've uncovered several areas that could

1 be lucrative to someone that wanted to cheat.

2 That's just in my opinion. I'm sure there are
3 several --

4 CHAIRMAN PATE: Yeah. I appreciate your
5 comments, Commissioner Waight. You know, it's the
6 advances of technology just have to change and cause you
7 to change the way you look at things about what can and
8 can't be done.

9 COMMISSIONER WAIGHT: Yeah.

10 CHAIRMAN PATE: If you recall, we discussed
11 this at the last meeting.

12 Isn't that right, Amy?

13 MS. COOK: Yes, Judge Pate.

14 CHAIRMAN PATE: Before you fainted. And it was
15 delayed.

16 Other rules that we discussed at that time, we
17 went ahead and put in the *Texas Register* and went forward
18 with. But we delayed these to make sure we had a second
19 set of eyes that the rules were within our statutory
20 calling of regulating pari-mutuel wagering. That's all
21 this is.

22 We're not -- as I understand it, we're not
23 creating a new wager. We're not creating a new -- all
24 we're doing is adopting to a more modern way of doing what
25 they've been doing physically.

1 COMMISSIONER McNABB: This is not off-track
2 betting.

3 MR. PETTIGREW: No.

4 COMMISSIONER McNABB: Not in any way, shape, or
5 form. You cannot place a bet outside the perimeter of the
6 racetrack. And you cannot place bets that you wouldn't
7 place if you walked over to the window. We're
8 accommodating --

9 MR. PETTIGREW: That's correct.

10 COMMISSIONER McNABB: -- people who have low
11 mobility or the nature of -- you know, they're coming to
12 the racetrack as a social event with a group. And this
13 just facilitates --

14 MR. PETTIGREW: Correct.

15 COMMISSIONER McNABB: -- their participation or
16 not.

17 CHAIRMAN PATE: All right. Any other --

18 MS. MALDONADO: I think I have some concern,
19 while I understand the need to have technological updates.
20 I have some concern with the impact to the local
21 workforce and the number of employees and possibly the
22 loss of jobs. And maybe, eventually, moving a step
23 further and going away from the teller windows altogether.

24

25 And I do think that's something that's

1 important to the Department of Agriculture -- rural
2 economic development and maintaining those opportunities
3 in the local area. So, if you could speak to that, I'd
4 appreciate it.

5 MR. PETTIGREW: Well, and over the course of
6 the past few years, more customers -- just like people
7 that go to their bank prefer to use an ATM or make digital
8 deposits, racetracks are no different. People want that
9 convenience of going over to a touchscreen. And they
10 don't necessarily want to talk to a teller.

11 But we still have a good amount of employees
12 that we employ at Sam Houston and Retama Park that are
13 tellers. And we use our tellers between both of our
14 racetracks. So if we have a big day, we can't necessarily
15 hire hundreds of new employees, so we will take employees
16 from one of our racetracks to the other to help for that
17 big day.

18 So it really hasn't impacted our employees --

19 MS. MALDONADO: So, this -B

20 MR. PETTIGREW: -- our employee levels.

21 MS. MALDONADO: In terms of a business plan
22 moving forward, this wouldn't be -- would this not be
23 opening the door to eventually having all betting being
24 done online through this intranet system with a loss of
25 jobs?

1 MR. PETTIGREW: It could be perceived that way,
2 but I don't think that's how it happens. When you go
3 visit other racetracks, there are -- some people like that
4 interaction. They like to ask a teller about their bet
5 or, Can you walk me through it? That the machine might
6 not be able to talk you right now.

7 MS. MALDONADO: Right.

8 MR. PETTIGREW: And so, they like to talk to
9 the teller. And you still see that at racetracks across
10 the country that even though there's that convenience of
11 having a mobile or an iPad ability to place a bet, you
12 still go up to the tellers. And you still see lots of
13 tellers at those racetracks.

14 MS. MALDONADO: Thank you.

15 COMMISSIONER McNABB: I'm sorry. I've --
16 what's your last name, sir?

17 CHAIRMAN PATE: Kohler.

18 COMMISSIONER McNABB: Kohler. Mr. Kohler. Mr.
19 Kohler cited statute and felt that what we were doing is
20 not consistent with the statute. Do we need to take the
21 time to have one more review statutorily?

22 I know we've gone through our usual process.
23 But do we need to get validation to the statute on this
24 before we move on this?

25 CHAIRMAN PATE: Maybe Mary has a view on it?

1 MS. WINSTON: Thank you.

2 Mary Winston, Texas Racing Commission. We
3 actually reviewed and -- we did a legal review. We went
4 through the steps with the Governor's Office. We made
5 sure that we are operating within our parameters of not
6 extending it outside of that geofence of racing.

7 And part of our call is the health and safety
8 of the jockeys, of the horses, the fairness of the
9 facilities and the races. But we also regulate
10 pari-mutuel wagering, correct? This is just another mode
11 of pari-mutuel wagering. It's not considered to be an
12 extension at all.

13 It's not an extension. It's actually an
14 upgrade to the machines and bringing them on par with
15 other states and their machines. We've mentioned mobility
16 issues and reasons that some people just don't like to get
17 up and go to the window.

18 There are windows. There are some folks who --
19 my husband loves to talk to everybody. So, he is going to
20 go and engage everyone. I'm more of a person -- I'll go
21 push a button and then I'm back to whatever I was doing.

22 This provides that opportunity in the agreement
23 moving forward. There is new software that is updated
24 that Texas is catching up to. And so, I thought that was
25 a fantastic comment from Ms. Maldonado about the impact on

1 the community.

2 But at this point -- and we haven't done a
3 10-year look ahead -- but there's currently no plan that
4 we are aware of to limit any of those folks who are going
5 between the two places. Because we do have people who
6 come to these places, they like the human interaction.

7 We also have people -- I've been there and we
8 have whole families who are having dinner. And a mom may
9 want to place a bet. She doesn't want to leave her kids.

10 Things like that is really what they're trying to
11 accomplish here.

12 And we're trying to make sure that the
13 parameters are legally within our purview as the
14 Commission.

15 COMMISSIONER McNABB: I want to be sensitive,
16 because, indeed, there's people that -- you know, gambling
17 is a sensitive issue in a lot of our state. But this does
18 not substantively change the access to betting, other
19 than --

20 MS. WINSTON: Commissioner McNabb, it does not.

21 COMMISSIONER McNABB: -- the mobility.

22 MS. WINSTON: It does not. It does not. That
23 geofence is very important.

24 We just -- they put in the parameters to keep
25 it just as it's been described, within the racetrack

1 perimeter, just like always. It's just physically -- I
2 don't know. We Americans may be lazy. I'm not really
3 sure.

4 But I think we're just busy. But it allows for
5 just ease of the experience.

6 COMMISSIONER McNABB: But we have gone through
7 the legislative review, because we are aware that there
8 are sensitivities. Anything that impacts --

9 MS. WINSTON: We have.

10 COMMISSIONER McNABB: -- gambling and
11 pari-mutuel, we want to make sure that we stay within the
12 box that has been well put forward --

13 MS. WINSTON: Yes.

14 COMMISSIONER McNABB: -- with the Racing Act
15 and what we regulate.

16 MS. WINSTON: Internal legal review, as well as
17 it has gone through our review with the Governor's Office
18 and has passed muster.

19 COMMISSIONER McNABB: Okay. Thank you.

20 CHAIRMAN PATE: All right. Thank you, Brian.
21 I appreciate your help.

22 MS. COOK: And a couple more things I think
23 would be helpful -- one is modernizing the technology
24 increases cybersecurity for the actual system itself. We
25 didn't actually have a definition for that system.

1 So, adopting a definition, putting some
2 granularity into the e-wagering plans, which, quite
3 frankly, was something I hadn't spent a lot of time on.
4 But now, I understand that better. Do I understand
5 everything? I'm not going to tell you I do.

6 But I am going to tell you that I stood there.
7 I watched Oscar Burroughs, who is the tote mutuels
8 manager at Sam Houston, create an account, place a bet --
9 only being able to do it because he was logged in on this
10 intranet system, and not be able to do it anywhere where
11 he wasn't supposed to.

12 I would also tell you that in terms of
13 off-track betting, which is the concern that Mr. Kohler
14 raised -- where I think we were open to criticism, and we
15 have now dealt with it -- is we've worked with the
16 licensees of the Gulf Coast Racing track in Corpus
17 Christi. I visited the track. I wrote them a letter
18 because they were doing import simulcasting for greyhound
19 races.

20 And that track had no live racing. And that,
21 of all things, could have been considered off-track
22 betting that we were permitting. And so we've ended that
23 practice.

24 So we have no locations other than the four
25 licensed racetracks that are currently doing either

1 simulcasting or live racing. So, I think we're trying
2 within, you know, the abilities that we have to make sure
3 that we are conforming with the statute. But in another
4 way, I don't know that it's fair to the industry to hold
5 them back from modernizing technology, which makes it more
6 secure and assures us that it will not leave the licensed
7 racetrack. But also, allows people that do visit the
8 track to visit.

9 I mean, in a way, I don't know that we would
10 want to hold them back. But certainly the staff would
11 recommend that these be posted in the *Texas Register*. But
12 it's certainly up to the Commission whether you decide to
13 move forward.

14 CHAIRMAN PATE: All right. So --

15 COMMISSIONER MACH: This is actually an
16 adoption.

17 CHAIRMAN PATE: This is an adoption. So --

18 COMMISSIONER MACH: Not a posting.

19 CHAIRMAN PATE: Correct. So, they haven't been
20 posted yet?

21 MS. COOK: They have been posted in the *Texas*
22 *Register* once. So, we proposed them in October. We had a
23 public meeting on them October 30, went to the Governor's
24 Office. We actually read a legal brief for the Governor's
25 Office on the statutory restrictions.

1 It was requested and we sent that in just to
2 make sure that we didn't have any issues with leaving the
3 boundaries of the statute. And then they were cleared by
4 the Governor's Office review team. And I put them in the
5 *Texas Register* for the appropriate 30 days.

6 So we received no comments -- public comments
7 other than industry letters of support. And so, now, if
8 you adopt them, then they will go back in the *Texas*
9 *Register* for the statutory period, and then become actual
10 rules more than --

11 CHAIRMAN PATE: So, what --

12 MS. COOK: -- likely around 1 April.

13 CHAIRMAN PATE: Mary, what do we need? A
14 motion to adopt the rules set forth at Agenda item 9A --

15 MS. WINSTON: That is what we -- that is the
16 motion we need. And I wanted to add onto what Amy just
17 said.

18 That posting -- you're right, Commissioner.
19 And that's that bite of the apple for all stakeholders,
20 those involved, licensees, public who are interested to
21 submit those comments. And they would come back. And we
22 just did not receive any.

23 So, we've taken --

24 COMMISSIONER MACH: You've already had the
25 posting for a period --

1 MS. WINSTON: We have.

2 COMMISSIONER MACH: -- and we didn't get --

3 MS. COOK: That's correct.

4 COMMISSIONER MACH: -- negative comments?

5 MS. WINSTON: We did not.

6 MS. COOK: Right. And we got two letters of
7 support from industry --

8 MS. WINSTON: Yes.

9 MS. COOK: -- that wrote us.

10 MS. WINSTON: We did give that opportunity. I
11 wanted to make sure that you were aware. We did not
12 receive negative comments.

13 So, Judge, yes, that would be the next motion.

14 CHAIRMAN PATE: All right. Well, if there's no
15 further discussion, the Chair would now entertain a motion
16 to adopt the rule amendments set forth in Agenda item 9A,
17 1 through 10. Is there a motion?

18 COMMISSIONER MACH: I'll make a motion.

19 CHAIRMAN PATE: Motion by Commissioner Mach.
20 Is there a second?

21 COMMISSIONER MOORE: Second.

22 CHAIRMAN PATE: Second by Commissioner Moore.
23 All right. All those in favor of the motion, signify by
24 saying aye.

25 (A chorus of ayes.)

1 CHAIRMAN PATE: All those opposed? Any?

2 (No response.)

3 CHAIRMAN PATE: It's unanimous. All right.

4 Motion carries. All right.

5 Amy, we are now looking at the discussion and
6 possible action to approve the postings on item 9B, 1
7 through 6.

8 MS. COOK: Thank you, Judge Pate.

9 These six rule amendments proposed for the
10 Commission consideration were discussed in a public Rules
11 Committee meeting on January 25, 2024, and are a part of
12 our continuing efforts to align the licensing rule with
13 our revised statute. They have been through a Governor's
14 Office review and been cleared. And so, if you approve
15 the posting of them in the *Texas Register*, they would go
16 in the *Texas Register* at the first opportunity.

17 The only rule amendment that did not go through
18 Rules Committee is rule amendment number 6 on your list.
19 And that concerns the greyhound and purse kennel accounts
20 and provides that pari-mutuel wagering funds are
21 distributed at the discretion of the Texas Greyhound
22 Association. The amendment in the meeting materials would
23 repeal the discretionary language that the Texas Greyhound
24 Association has used in the past and would adopt language
25 stating that the Commission will determine the appropriate

1 distribution of funds held by the Texas Greyhound
2 Association that are derived from pari-mutuel wagering
3 activities.

4 This rule, we believe, was used as a basis for
5 the declaratory judgment that we discussed at the December
6 Commission meeting, which is a matter of concern for the
7 staff and Commission, and was added as a possible rule
8 amendment to address these concerns.

9 Staff recommends the Commission approve posting
10 the proposed rules in the *Texas Register*.

11 CHAIRMAN PATE: All right. Commissioners, any
12 questions of Director Cook?

13 (No response.)

14 CHAIRMAN PATE: Mary, is anyone signed for
15 public comment on this Agenda item?

16 MS. WINSTON: We have no public commenters for
17 this item.

18 CHAIRMAN PATE: All right.

19 COMMISSIONER MACH: I make a motion that we
20 approve the posting of all proposed rule amendments to the
21 *Texas Register* under section 9B of the Agenda.

22 COMMISSIONER McNABB: Second.

23 CHAIRMAN PATE: It's a motion made and
24 seconded -- Commissioner Mach and seconded by Commissioner
25 McNabb. All those in favor, signify by saying aye.

1 (A chorus of ayes.)

2 CHAIRMAN PATE: Any opposed?

3 (No response.)

4 CHAIRMAN PATE: All right. The motion carries.

5 On to Agenda item 10 -- the next Agenda item,
6 10A, racetrack proceedings, discussion, and possible
7 action on active licenses scheduled for review under our
8 rule, 16 TAC 309.51 through 52.

9 General Cook, would you address this item?

10 MS. COOK: Thank you, Judge Pate.

11 The first racetrack review -- we have four for
12 your consideration, the first three are greyhound tracks
13 that are currently holding active licenses, and the last
14 one is Retama Park, which holds an active Class 1 horse
15 track license.

16 For Valley Race Park, as you know, the
17 greyhound tracks have not had live racing since February
18 of 2020. In speaking with the license holders and
19 visiting the one track, Gulf Coast Racing, in October and
20 talking through how we really need to have, you know, the
21 statutory requirements met -- that they have financial
22 stability, the ability to conduct live racing, to
23 construct and maintain a racetrack, and other good faith
24 efforts to conduct live racing.

25 As we all know, the greyhound industry is

1 winding down in Texas. So with respect to Valley Race
2 Park in Harlingen, Texas, what the staff recommends is the
3 Commission change the designation of this license from
4 active operating to inactive in good standing under the
5 Texas Rules of Racing, Section 209.51c, with the next
6 review scheduled for this racetrack no earlier than June
7 of 2025.

8 We make the same recommendation with respect to
9 Gulf Greyhound in LaMarque, Texas, changing the
10 designation of this license from active operating to
11 inactive in good standing under the Texas Rules of Racing,
12 section 309.51c, with the next review scheduled no earlier
13 than June of 2025. Same recommendation is made for the
14 third greyhound track, Gulf Coast Racing in Corpus
15 Christi, that the Commission change the designation of
16 this license from active operating to inactive in good
17 standing under the Texas Rules of Racing, section 309.51,
18 with the next review scheduled no earlier than June of
19 2025.

20 With respect to Retama Park, we spoke about
21 Retama Park in the fall. I'm happy to report today that
22 they hold an active operating horse license. And they
23 have taken dramatic steps to rebuild their track, to
24 upgrade their facilities, to really meet the critical
25 components of the statute in terms of demonstrating that

1 they want to be perhaps the best racetrack in Texas.

2 So, I really applaud all of the work from the
3 whole Penn Entertainment team and all of the stakeholders
4 in the Retama license for their partnership and their work
5 with the Commission staff. So, based on the steps they've
6 taken, we recommend the renewal of Retama Park's active
7 Class 1 horse track license with no condition, with the
8 next review scheduled in February of 2029.

9 And that concludes my remarks.

10 CHAIRMAN PATE: All right. So one of the
11 things that staff has spent a great deal of time and is
12 continuing to spend a great deal of time doing is dealing
13 with this whole greyhound matter. So the specification of
14 extending no further reviews -- we're subject to an annual
15 review of these.

16 So instead of saying we'd take it up next year
17 at this time, we're just going to push it until after the
18 end of the next legislative session to see what happens,
19 if any get through the legislature with respect the
20 greyhound statutes. And that's what that designation is
21 about. Hopefully, that will reduce Amy's need to spend as
22 much time on that issue as she has been in the past.
23 That's what that's all about.

24 Commission, any other questions?

25 (No response.)

1 CHAIRMAN PATE: All right. If there's no
2 further discussion or public comment, the Chair would now
3 entertain a motion on staff's recommendation to
4 redesignate the Valley Race Park, Gulf Racehound Park, and
5 Gulf Coast Racing licenses from active operating to
6 inactive licenses under the Texas Rules of Racing, Section
7 309.51c, in good standing, with the next review scheduled
8 no earlier than June 2025.

9 COMMISSIONER McNABB: So moved.

10 CHAIRMAN PATE: Motion by McNabb.

11 COMMISSIONER MACH: Second.

12 CHAIRMAN PATE: Second by Commissioner Moore.

13 COMMISSIONER MACH: Mach.

14 CHAIRMAN PATE: I'm sorry. I thought it was
15 Moore. It was Mach. All right.

16 Any further discussion?

17 (No response.)

18 CHAIRMAN PATE: All right. All those in favor,
19 signify by saying aye.

20 (A chorus of ayes.)

21 CHAIRMAN PATE: Any opposed?

22 (No response.)

23 CHAIRMAN PATE: I guess I should have asked.
24 Was there any public comment on these items?

25 MS. WINSTON: There was none.

1 CHAIRMAN PATE: All right. And if there is
2 no -- with respect to Retama, I appreciate your remarks on
3 that.

4 Does anybody have any questions about the
5 Retama renewal?

6 {No response.}

7 CHAIRMAN PATE: All right. If there's no --
8 any public comment on Retama?

9 MS. WINSTON: No public comment.

10 CHAIRMAN PATE: All right. Thank you. If
11 there's no further discussion or public comment, the Chair
12 would now entertain a motion on staff's recommendation to
13 renew the Retama Park active Class 1 horse track license
14 with no conditions under Texas Racing Act, Texas
15 Occupational Code, Chapter 2025.106 and 16 Texas
16 Administrative Code, Section 309.53.

17 COMMISSIONER MACH: So moved.

18 CHAIRMAN PATE: Motion by Commissioner Mach.

19 COMMISSIONER McNABB: Second.

20 CHAIRMAN PATE: Second by Commissioner McNabb.

21 Is there any further discussion?

22 {No response.}

23 CHAIRMAN PATE: Hearing none, all those in
24 favor, signify by saying aye.

25 {A chorus of ayes.}

1 CHAIRMAN PATE: Any opposed?

2 (No response.)

3 CHAIRMAN PATE: Motion carries.

4 We are going to have a brief Executive Session
5 today. Agenda item 11 is Executive Session. We will now
6 move into Executive Session under Texas Government Code,
7 Section 551.071, 1 and 2. The time is now 11:30 a.m.

8 (Whereupon, at 11:30 a.m., the meeting was
9 recessed, to reconvene this same day, Wednesday, February
10 14, 2024, following conclusion of the executive session.)

11 CHAIRMAN PATE: All right. It's 11:50 a.m. on
12 the clock. The Commission is now reconvening, concluding
13 its Executive Session at 11:50.

14 All right. The Chair would now entertain a
15 motion to approve the amendment to the totalizer contract
16 for Retama Park.

17 COMMISSIONER McNABB: So moved.

18 COMMISSIONER MACH: Second.

19 CHAIRMAN PATE: Motion by McNabb, seconded by
20 Mach. Is there any further discussion?

21 (No response.)

22 CHAIRMAN PATE: All those in favor, signify by
23 saying aye.

24 (A chorus of ayes.)

25 CHAIRMAN PATE: Motion carries.

1 And there being no further business to come
2 before the Commission, we are adjourned.

3 The next meeting is Wednesday, April 10, 2024,
4 at 10:30, hopefully in this or a similar room, the
5 location to be announced. Thank you very much for being
6 here today.

7 (Whereupon, at 11:51 a.m., the meeting was
8 adjourned.)

C E R T I F I C A T E

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MEETING OF: Texas Racing Commission

LOCATION: Austin, Texas

DATE: February 14, 2024

I do hereby certify that the foregoing pages,
numbers 1 through 62, inclusive, are the true, accurate,
and complete transcript prepared from the verbal recording
made by electronic recording by Elizabeth Stoddard before
the Texas Racing Commission.

DATE: February 26, 2024

/s/ Anna Marie Reyes
(Transcriber)

On the Record Reporting
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