

TEXAS RACING COMMISSION

MEETING

10:30 a.m.
Wednesday,
December 14, 2022

Capitol Extension
Room E2.026
1100 Congress Avenue
Austin, Texas 78701

COMMISSIONERS:

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

EX OFFICIO MEMBERS:

TIM KLEINSCHMIDT, Texas Department of
Agriculture
STEVEN P. MACH, Public Safety Commission

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P R O C E E D I N G S

1
2 CHAIRMAN PATE: It is 10:30 on our clock. I
3 call the meeting to order.

4 Phil, please call the roll.

5 MR. FOUNTAIN: Chairman Pate.

6 CHAIRMAN PATE: Here.

7 MR. FOUNTAIN: Vice Chair McNabb.

8 COMMISSIONER McNABB: Here.

9 MR. FOUNTAIN: Commissioner Mach.

10 COMMISSIONER MACH: Here.

11 MR. FOUNTAIN: Commissioner Kleinschmidt.

12 COMMISSIONER KLEINSCHMIDT: Here.

13 MR. FOUNTAIN: Commissioner Waight.

14 COMMISSIONER WAIGHT: Here.

15 MR. FOUNTAIN: Commissioner Moore.

16 (No response.)

17 MR. FOUNTAIN: Commissioner Contreras.

18 (No response.)

19 MR. FOUNTAIN: Commissioner Martin.

20 (No response.)

21 CHAIRMAN PATE: Do we have a quorum?

22 MR. FOUNTAIN: Yes.

23 CHAIRMAN PATE: All right. Again, good
24 morning, everyone. We are calling this meeting to order.

25 We are changing up how we are going to start our

1 meetings.

2 As I have said to several people, I had two
3 generals in my life now, General McNabb and General Kirk.

4 Please rise. We are going to cite the Pledge of
5 Allegiance and the Texas pledge.

6 (Whereupon, the Pledge of Allegiance was
7 recited.)

8 CHAIRMAN PATE: And the Texas pledge. We will
9 see how many you all know this, okay.

10 (Whereupon, a pledge to the Texas flag was
11 recited.)

12 CHAIRMAN PATE: Thank you. Be seated. Okay.

13 Beginning the meeting at Agenda Item 3A.

14 Again, I want to welcome you to the December meeting of
15 the Texas Racing Commission. Much has happened since we
16 were last together.

17 First, as you may have noticed on the
18 recommendation of our Executive Director, former Army
19 General Amy Cook, and with the active support and consent
20 of our Vice Chair, former Air Force General Connie McNabb,
21 we have decided to begin our meeting with the Pledge of
22 Allegiance and the Texas pledge to remind all present that
23 we, at least at this Commission, are all here to serve the
24 country and the state under the law, to the best of our
25 abilities, within our own small piece of responsibility.

1 Next, this past year, I have used our meetings
2 to make certain policy statements and to explain certain
3 agency actions through these Chair remarks since I have
4 had the privilege and necessity of working closely with
5 our Executive Director, as she has reshaped and advanced
6 the Agency. Safe to say, we communicate often on a range
7 of matters involving the Agency.

8 I think it only fair that each Commissioner
9 also be given that same opportunity as this agency is
10 meant to be operated in a transparent fashion. And each
11 Commissioner may have remarks of value to the whole, and
12 will therefore be similarly recognized beginning in a few
13 minutes, and in each subsequent meeting, if any
14 Commissioner chooses to make a statement.

15 Today, you will be hearing reports from the
16 Executive Director concerning the effort of staff to
17 clarify the status of certain track licenses granted by
18 the Commission and what the plan is to move forward to
19 review each track license. Unfortunately, because of the
20 poor recordkeeping dating to years past, the Commission
21 has had difficulty determining the exact nature of
22 compliance with certain Commission rules by all license
23 holders.

24 To clarify and complete all required records,
25 you will hear Amy discuss her consultation with all

1 license holders. And the process we will use to review
2 these matters plan to occur no earlier than August of
3 2023, after a full staff review, and a recommendation as
4 the agency is extremely busy already with our various
5 legislative priorities. You will also be hearing of a
6 consideration and development of training center rules and
7 policies, something referenced in our rules but without
8 Commission policies and procedures that need to be
9 determined and adopted.

10 As you are aware the legislative priorities are
11 many, and the list continues to expand. First, of course,
12 is the new funding proposal, which we have approved. Amy
13 and staff have had meetings with appropriate members of
14 the Legislative Budget Board, both House and Senate
15 Appropriations committees, as well as numerous meetings
16 with the Governor's Office designated liaison.

17 These meetings were and are uniformly positive
18 in tone, and in subject matter interest. But time will
19 tell. She will report on these activities.

20 Next, a number of technical changes to the
21 Texas Racing Act are emerging, both from our ongoing rules
22 review as well as our collaboration with industry as they
23 point out various technical changes that make sense, all
24 as part of the post Sunset review cleanup bill.

25 However, perhaps the most important recent

1 accomplishments by Texas has been its participation as an
2 intervenor in the successful appeal of the adverse
3 judgment rendered in the United States District Court in
4 Lubbock, which was appealed to the Fifth Circuit Court of
5 Appeals, concerning the federal HISA law. As you all know
6 by now, on November 18th, that statute was declared
7 facially unconstitutional.

8 It was a real win for Texas and the United
9 States, in my view -- the horse racing industry, as this
10 extremely poorly written statute did not harmonize with
11 Texas law on a number of points and necessitated this
12 Commission denying interstate thoroughbred horse racing
13 simulcast export signal. Texas stood alone in this
14 effort, as no other racing commission took this action to
15 deny jurisdiction to HISA pursuant to its enabling
16 statute.

17 Particularly damaged by this necessary action
18 was Lone Star Park, which unfortunately, was caught mid
19 beat, and was prevented from exporting signal for the last
20 14 days of its summer 2022 meet, at an estimated seven
21 figure loss to the track. That said, it was heartening to
22 enjoy the support of Skip Sealey and Matt Vance with Lone
23 Star Park, and their designated representative Daniel
24 Hodge who took the time to understand the legal problems
25 that the Commission was faced with, and who supported our

1 decision. Although this was a financial hit, to my
2 knowledge, they never complained to anyone with the
3 Commission for these actions.

4 Skip and Matt, we are grateful for your
5 confidence in the Commission, and appreciate your
6 understanding and support of the Commission in the
7 fulfillment of the Commission's duties under Texas law.
8 Your confidence and support showed real industry
9 leadership in a very difficult situation for Lone Star
10 Park.

11 Additionally, I will remind you that Dwight
12 Berube on behalf of Sam Houston Parks stood and announced
13 in the last Commission meeting that despite the
14 understanding that signal would not be exported, his track
15 would be applying for thoroughbred race days in 2023.
16 Again, providing leadership in Texas in support of this
17 Commission, which we truly appreciate.

18 Today, as our guest, we have attorney Lanora
19 Pettit, the Deputy Assistant Solicitor General of Texas
20 here to meet with us, the Commission, in Executive Session
21 to discuss the current status of the case.

22 Obviously, this Commission would enjoy again
23 allowing its tracks to interstate simulcast signal of
24 thoroughbred horse racing, but it must be consistent with
25 legalities resulting from the Fifth Circuit decision.

1 Certain procedural hurdles must be met before the
2 Commission can approve the export of signal for
3 thoroughbred races.

4 The particular legalities concerning such will
5 be discussed with the Commissioners in a few minutes in
6 Executive Session. But please rest assured on the very
7 day that this Commission can lift the thoroughbred race
8 export signal ban, it will.

9 I will comment that I listened to the recorded
10 arguments before the Fifth Circuit. I can report that
11 when Lanora took the floor, the Justices clearly paid
12 attention. In fact, her brief which was filed in this
13 case is specifically mentioned in the Court's opinion.

14 Texas is lucky to have such a respected and
15 talented appellate lawyer working on behalf of its
16 citizens. So, Lanora, I want you to please stand and be
17 recognized.

18 (Applause.)

19 CHAIRMAN PATE: On the morning of December 7,
20 last week, the 81st anniversary of the Pearl Harbor
21 attack, a similar facial challenge to the
22 constitutionality of the HISA law was heard by the Sixth
23 Circuit Court of Appeals in Ohio. Although one can never
24 tell what the Justices' ruling might be, based on the
25 questions asked, it is safe to say that all three of the

1 six Circuit Justices expressed serious concerns about the
2 HISA statute, through their vigorous questioning of the
3 HISA lawyers.

4 Merely expressing my opinion now, I would be
5 surprised personally, if the Sixth Circuit ruled any
6 differently than the Fifth Circuit. Particularly because
7 the trial court in the Sixth Circuit case relied heavily
8 on the trial court determinations in the Fifth Circuit
9 case which was unanimously reversed. Time will tell.

10 Our last development, I guess, to mention -- I
11 guess there was one this morning, also. But the last
12 development to mention is that two days ago, the FTC
13 issued an order denying HISA its proposed rules with
14 respect to the anti-doping and medication control program
15 that HISA was widely advertising it would implement on
16 January 1, 2023.

17 The FTC noted the Fifth Circuit decision and
18 the pending Sixth Circuit decisions and opted to do
19 nothing until the law is settled. It seems to me that the
20 folks at the FTC are reading the handwriting on the wall.

21 Meanwhile, we move on with today's agendas.
22 Item 3B, Vice Chair with the Commission, Dr. McNabb, I
23 would like to recognize her for her remarks, which will
24 include an update of the Commission's rules review,
25 particularly the one held at Lone Star Park on November

1 9th.

2 COMMISSIONER McNABB: Thank you, Judge.

3 Good morning. We had a meeting on the 9th of
4 November up at Lone Star Park. First of all, I would like
5 to appreciate all the great support that they gave us,
6 technical support, beautiful facility. You know, what a
7 great opportunity and great place to meet.

8 And we had quite a few folks from the industry
9 come in there. As you can imagine, as we have done a swan
10 dive into reorganizing our rules, this is every bit as big
11 a job as we thought it would be. And things jump up and
12 we are trying to make sure that we get some consistency.

13 But we are very pleased and grateful that we
14 are getting very active industry feedback. Now, we want
15 to hear what everybody has to say. We had staff and
16 constituents there.

17 We are partnering to get some clear regulatory
18 standards. Even though we did 302 at Fredericksburg, we
19 are still going through and making sure that when we talk
20 about something, that we have got clear understandings of
21 what our definitions are. And that is still some
22 crosstalk.

23 Some of the topics that we thought that we were
24 going to get into in more depth on the 9th, we weren't
25 quite ready. And that has to do with the class structure

1 and the draft of the 304. And that is coming.

2 So we are going to continue these. But we are
3 finding that there is a lot more crosstalk and a lot more
4 deconfliction to do.

5 But when we get it right, we want it to be with
6 everybody, stakeholders as well as the regulators, that we
7 can all move forward and say now we know what the rules
8 are. We know that they are fair. And now we know how we
9 are going to take care of this industry.

10 We took a look at some of the very specific
11 things. What do we need to do to protect the health and
12 welfare of the humans and the equine participants?

13 We heard from the Jockey's Guild a very
14 in-depth report on the types of protections that they are
15 looking to have. Some of those I think, are within reach.
16 Some of them are pretty ambitious.

17 But I don't think that anybody disagrees that
18 we can all do a better job of taking care of jockey
19 health. Because we can't have horse races if we don't
20 have them.

21 So, we had a lot of tremendous information.
22 And what does right look like. And then what is a plan
23 moving forward to get to where we need to be, and still
24 not break the back of the industry.

25 We are taking a look at what are the criteria

1 for official training tracks. And what is the licensing
2 that needs to happen so that indeed we can do this. We
3 have got, you know, our current tracks. We have other
4 tracks that are looking to come on line.

5 How are we going to best serve the industry?
6 What are the regulatory criteria that we need to have in
7 place? Again, because our job is protecting the health
8 and welfare of the racing animals and the participants in
9 racing.

10 We had -- we took a look at what are the
11 critical control points. So those are really the things
12 that we are going to start as we move forward. We are
13 looking forward to ongoing exchange and possible policy or
14 interim rules.

15 So there may be some things that aren't going
16 to wait for the full roll out. If we have things that we
17 look at and say, we need to take care of this now. So, we
18 might be doing some interim rules in the current rule book
19 to take care of things that then we incorporate later.

20 So we are not doing anything recklessly. But
21 as we are going through these rules, we are realizing that
22 there are some holes that we do need to fix.

23 We are anticipating another meeting early in
24 the year. The exact date remains to be determined. There
25 is a lot on our plate for a very small and hardworking

1 staff.

2 And oh, by the way, the legislative session is
3 happening. So we have people there. We have to make sure
4 that we are informing them. So, we look forward to
5 another meeting.

6 We are not going to drop the ball on this.
7 This is important. We have got to get this right. And it
8 is a big job that is overdue.

9 So I want to thank everybody who has been a
10 part of it. I look forward to seeing you soon. We have a
11 lot of work to do.

12 Thank you, sir.

13 CHAIRMAN PATE: Thank you, Commissioner McNabb.

14 Again, we do greatly appreciate your extensive and
15 continuing efforts in modernizing and reforming the Texas
16 Rules of Racing.

17 Just moving briefly to Agenda Item 3C, are
18 there any Commissioners who would like to make any remarks
19 today?

20 Go ahead, Commissioner Kleinschmidt.

21 COMMISSIONER KLEINSCHMIDT: Folks, I have been
22 here several years now. And I just want to thank each of
23 you for your continued cooperation and communication.
24 Because without industry help, it just doesn't work,
25 okay -- to keep, to help support this industry, in the

1 State of Texas.

2 So, I want to thank each -- I know you all. I
3 go to a lot of meetings. This one is pretty well
4 attended. And I know it takes time out of your busy days.

5 And thank you very much for coming. I
6 appreciate your input.

7 CHAIRMAN PATE: Thank you, Commissioner.

8 Would anyone else like to be recognized?

9 (No response.)

10 CHAIRMAN PATE: All right. Thank you
11 Commissioners all, for your continuing support of the
12 Agency and the sport of racing.

13 The Commission now is moving to Agenda Item 9,
14 Executive Session, to accommodate Ms. Pettit from the
15 Office of the Attorney General of Texas so that following
16 our session, she can then return to her office without
17 added delay.

18 The Commission will now enter into Executive
19 Session under Government Code Section 551.0711 to seek the
20 advice of its attorney regarding pending or contemplated
21 litigation. The time is now 10:44.

22 (Whereupon, the Board recessed into Executive
23 Session.)

24 CHAIRMAN PATE: The Commission is now
25 reconvening after concluding its Executive Session under

1 Government Code Section 551.0711. The time is now 11:09
2 a.m.

3 We have made no decisions while in Executive
4 Session and took no action.

5 Moving on now, to Agenda Item 4, public
6 comment. Phil, has anyone signed up for public comment?

7 MR. FOUNTAIN: No, sir.

8 CHAIRMAN PATE: All right. Moving on to Agenda
9 Item 5A, the Executive Director's report.

10 Amy Cook, please give us your report.

11 MS. COOK: Good morning, ladies and gentlemen.

12 For the record, Amy Cook, Executive Director of the Texas
13 Racing Commission.

14 I would like to take two points of personal
15 privilege this morning. First, I would just like to thank
16 the amazing industry folks who are here present today and
17 watching online.

18 It has been a year since my first Commission
19 meeting. And I couldn't be more grateful for the
20 opportunity to continue to serve the state in this
21 capacity, and the great support I have gotten from
22 everyone -- the Commissioners, the Agency employees, and
23 the industry folks -- in extending the trust to me. And
24 this is quite a position of trust, you know, with
25 everything it involves in terms of business interests and

1 safety of participants, and just the way Texans think
2 about the great sport of horse racing in our state.

3 So I remain grateful. And I look forward to
4 continuing to serve the state and nation in this capacity.

5 My second point of personal privilege is that I
6 started a program when I first got here of Employee of the
7 Month. And so, the rules were very simple. If you were a
8 director like me, or had a director role, you weren't
9 eligible.

10 I recognized employees month by month. I would
11 try to see them in person myself, take a picture with
12 them. They got a day off and they got a certificate of
13 appreciation. And just sort of the thanks from the whole
14 Agency for a great job during the year.

15 And what I told everyone was that if you became
16 of the employee of the month, you were in the running for
17 Employee of the Year. And then no one quite knew what
18 that meant.

19 Well, what it means if you are Employee of the
20 Year for the Texas Racing Commission is you not only have
21 our support, admiration, and thanks, but you also get a
22 week off. And you get a special presentation from the
23 Executive Director.

24 So I would like to invite the 2022 Employee of
25 the month, Ms. Virginia Fields -- of the Year, sorry. Up

1 to the podium to join me, Virginia.

2 (Applause.)

3 MS. COOK: So now this is the Employee of the
4 Month from February of 2022. And she has been telling me
5 ever since that she wanted to make sure I knew that it was
6 important that she stay in the running.

7 So, what we have for you, Virginia, is we have
8 an engraved vase here for your favorite flowers. It says
9 Virginia Fields, Employee of the Month [sic] 2022.

10 And I was asked, what is the best quote to put
11 on here? So, I put on here, Live like someone left the
12 gate open. Like horses coming out of the gate.

13 So that is what we have for you, as well as a
14 nice certificate. And we will take a little picture here
15 with that.

16 (Whereupon, photographs were taken.)

17 MS. FIELDS: Thank you, everyone.

18 MS. COOK: And then I will let you hang on to
19 that. Some flowers to put in your vase.

20 MS. FIELDS: Thank you, General. Thank you.

21 MS. COOK: We are so proud of you. I could
22 not --

23 (Applause.)

24 MS. COOK: I could not have made it through
25 this year without everyone's support, but I am

1 particularly grateful for you, Virginia.

2 MS. FIELDS: Thank you, Amy. I am grateful for
3 you. And quite frankly, her leadership has been
4 astounding. And it is -- I am so privileged to be working
5 under such great leadership. I really am.

6 And a great team with all of the wonderful
7 employees with this agency. Thank you, everybody.

8 MS. COOK: Here. I will take that back, so you
9 don't have to hold onto that. I will carry it out for
10 you.

11 (Whereupon, photographs were taken.)

12 MS. FIELDS: Thank you, Boss.

13 MS. COOK: Something to aspire to. Okay.
14 Thank you so much for allowing me that point of personal
15 privilege.

16 You know, I have to tell you, when I took this
17 job, I started thinking about Commission meetings, having
18 never been to one in my whole military career. And I
19 looked at what best practices were in other Commission
20 meetings.

21 And that was one of the ones that Department of
22 Public Safety, you know, Agriculture Commission, and some
23 of the other great Commissions that are around the State
24 of Texas recognizing employees, and really saying thank
25 you. So it is important to me that we are really starting

1 that tradition here.

2 So a couple of items to report on for you
3 today, before we get into the rest of the agenda. In
4 terms of legislative session, on Monday, Phil and I were
5 in this building, attending the state agency government
6 relations event at the Legislative Conference Center at
7 the Capitol.

8 This was a great event to educate legislators
9 on our requests for the legislative session. We handed
10 out the tri-folds that you see in front of you.

11 You know, it is interesting. A lot of state
12 agencies bring, you know, little books, and little bags,
13 and little -- the DPS brought some cool t-shirts. But we
14 brought great Christmas candy. And we were playing
15 wonderful videos.

16 And I want to credit Leonard Buchanan over here
17 for creating -- of Gillespie County Fair. And Dr. Bond at
18 work, really trying to start telling that story.

19 And it is amazing how many legislative staffers
20 don't even know that there is a Texas Racing Commission,
21 or how great this industry is for the State of Texas. So,
22 that was a great event.

23 We got a chance to also meet Pam, Kevin, and
24 Carl at DPS. They sat right next to us, as well as Addie,
25 at the Department of Agriculture. And really kind of

1 reach out to some of our ex-officio Agency, and continue
2 to build those relationships.

3 On September 23, I presented the Agency's
4 budget at the Legislative Budget Board hearing. And I
5 really tried to make the point that this is really an
6 investment. Our request -- there's a one-time investment
7 for some of the IT needs and the transportation needs of
8 the Agency, and then there's the sustainment costs.

9 But what I hear from all the legislators,
10 including Senator Joan Huffman, who came to a breakfast I
11 was honored to attend with other executive directors is,
12 the Legislature is looking to make investments that are
13 good for the long term. And what we are asking for is
14 really a great long-term investment for the State of
15 Texas, in the agricultural, equine, and entertainment
16 industries of the state.

17 So I think that is going to be a winning
18 message through session, that this is just not something
19 that they are going to put money in one time. But there
20 is going to be such an economic comeback of the
21 horseracing industry. And I think you are going to hear
22 more about that today, as we consider some of the agenda
23 items.

24 So, as we prepare, we are going to continue to
25 create products, tell our story. And I want to also

1 recognize Phil Fountain who came along as Governmental
2 Relations specialist in April, and has done an amazing job
3 helping kind of guide how we are preparing for that. I
4 think you all know, I promoted him to Chief of Staff now,
5 and he is doing an amazing job there.

6 And I am proud to announce that Noel Johnson,
7 who is in the audience today, will be joining us as our
8 Government Relations lead in January.

9 So, it is really important. The Agency never
10 had from all of the research I have done any kind of
11 Government Relations team that really made sure. And what
12 we hear, when we go office to office is, fortunately, you
13 know, if there is positive response. But we also hear if
14 someone from that agency had shown up and explained why
15 this is so important, we would have been able to
16 understand this far, far -- a few more sessions ago.

17 So, creating a really positive response on just
18 being present. And that is really our goal the next six
19 months is to be present wherever we need to be. Being in
20 all the right places and really trying to tell the great
21 story of the industry.

22 And we have some amazing partnerships going on
23 there as well, in terms of just you know, staffing, what
24 we are doing with our industry folks, and having them tell
25 us whether they think that is a winning strategy or not.

1 So, moving on to the meeting materials, and a
2 couple of other topics here. Page 10 through 15 of your
3 meeting materials is a copy of the letters the Agency
4 received from the Horseracing Integrity and Safety
5 Authority on the implementation of the anti-doping and
6 medication program. And so, I did not write an answer
7 back to those right away. But a couple of letters came
8 in.

9 And after speaking with the Texas Veterinary
10 Medical Diagnostic Lab -- and the Horseracing Integrity
11 and Safety -- now HIWU, Horseracing Integrity and Welfare
12 Unit, approached our lab. And essentially said, well, we
13 want to work with you as a laboratory in this horseracing
14 federal regulation scheme, but you can't talk to your own
15 racing commission and you have to sign a non-disclosure
16 agreement.

17 Once I had that conversation with the lab, I
18 went ahead and wrote that letter back to HISA that says,
19 thank you so much. You have no jurisdiction here. Have a
20 nice day.

21 And Dr. Amy Swinford was copied on there. So,
22 our lab wouldn't have to sort of get in this back and
23 forth over jurisdiction. They could simply forward that
24 letter and say, thanks for calling. But you are not --
25 you have no jurisdiction here.

1 That contract we have with the Texas Veterinary
2 Medical and Diagnostic Lab is really important to us. We
3 have done a lot of work with Travis Mays, and Dr. Hensley
4 who are here today. A great partnership with them.

5 It is a statutory requirement. And I think
6 they do the best job in the nation of drug testing for all
7 the animals that they test. And so, we are proud to
8 support them and continue to support all the work that
9 they do to modernize the lab.

10 So what we really know today, I think -- and a
11 little bit was in Judge Pate's remarks -- is that HISA's
12 position is that they are the only entity that are
13 authorized to conduct drug testing on 1 January. And of
14 course, we dispute that. And now of course, even the
15 Federal Trade Commission has not adopted their rules,
16 which is helpful in that.

17 But it is one more point of, you know -- to
18 look at, that really, the states should be regulating this
19 industry. To the extent that the federal government does
20 it, it should be done with state participation. And you
21 shouldn't just send edicts down to the state or to their
22 laboratories to be able to further this program.

23 We all believe in increased safety and
24 integrity, but having just come out of a great conference
25 in Arizona, with the entire state racing commission bodies

1 present there, you know, the general feeling across the
2 nation is, it would be great. Now, it is really
3 fascinating, because here we are in one board room, having
4 an Association of Racing Commissioners International
5 meeting, which Commissioner McNabb did a great job on
6 serving on for a number of years. And I am now a Board
7 member of.

8 And down the hall is HISA, you know, saying,
9 you can come by and see us. And I actually went in and
10 saw Ms. Lazarus and said good morning and said it was nice
11 to see her again. Last time I saw her, she was in Texas.

12 But it is -- there is a great divide here that
13 really shouldn't be here. Because at the end of the day,
14 it is all one industry. So to the extent that Texas can
15 lead in that space, if there is going to be federal
16 regulation and make recommendations on what that looks
17 like, or if there is not going to be federal
18 regulations -- really lead in that space. And show what
19 the model state and the best racing commission in America
20 looks like, we are going to continue to do that.

21 And one other topic I want to broach with you
22 before we really get into any of the other agenda items is
23 training facility licenses. I was approached on November
24 23, the day before Thanksgiving, by Retama Park, who was
25 anticipating opening to be a training facility.

1 In our rules, you had the occupational license.
2 You had the racetrack license. And then you have a
3 training facility license that is in Section 313.

4 That license is a little bit different than the
5 others in that the Executive Director, in our rules,
6 issues that license and then looks to see what the safety
7 standards should be, and so forth. The Commission doesn't
8 currently have any licensed training facilities.

9 What we have is our Class One Race Tracks that
10 are providing official workouts for horses that then
11 qualify them for entry into races during their lockdown
12 periods, typically. But we don't have an independent
13 training facility license.

14 So the difficulty I was presented with was that
15 in that chapter, you have to apply for the license, and we
16 didn't even have a license form developed -- which
17 Virginia has drafted and we are looking at. Meet the
18 physical safety standards for horses and horsemen. And
19 then meet the operational requirements for training safety
20 at the facility. And then of course, there is
21 occupational license requirements as well.

22 And these are issued annually, these training
23 facility licenses. Since we are in the middle of drafting
24 Chapter 304, my thought and my discussion with
25 Commissioner McNabb and Virginia was that all licensing,

1 business licensing, in terms of race tracks, training
2 facilities, and occupational licensing really goes in that
3 chapter. So as we are thinking about our licensing
4 overall, and how to facilitate industry growth and do this
5 well, that is part of that discussion.

6 But where we really stand today is that our
7 staff needs some time to develop the appropriate
8 application, review the proposed dates requested, you
9 know, once the application is submitted by Retama Park,
10 and any other facilities interested. And determine
11 whether we can really meet all the safety and integrity
12 standards, as well as adequate staff available to
13 supervise the operation of the training facilities.

14 So we are going to work with Retama Park to
15 expedite this process. I sent Chief Steward Ann Alley
16 down to Retama on November 29th with a team from the
17 Commission staff, and some industry representatives to
18 take a look at the facility. And she wrote me a report
19 that will serve as the basis for development of the
20 training program.

21 So what I have also told a couple of folks this
22 morning is we will have an industry, and a Racing
23 Commission Agency, call with them, probably Wednesday or
24 Thursday of next week and talk out what is it that we need
25 to do to go from where we are now to there.

1 You have horsemen that had an expectation of
2 going to a training facility. And sort of a not real good
3 communication between the Commission and Retama Park on
4 this.

5 So I want to acknowledge that I know that there
6 are some concerns about how we get there. And I want to
7 communicate as well as I can, to get us there as quickly
8 as possible.

9 And what I would expect in the future is that
10 the race date applications that we are going to talk about
11 in a moment, those race date applications, if you are a
12 Class One track, would have when are you going to do your
13 official works. Because in fairness to the horsemen, they
14 should know when those official works are.

15 We should know, because those official works do
16 qualify the horses to enter into races. And that should
17 all be easy for anyone from the public to know that. So,
18 we are working toward that in the best way we know how, as
19 quickly as possible.

20 But it is really important to me not to take
21 unnecessary risk in terms of safety of horses and riders,
22 in terms of official workouts, and make sure that if
23 someone questions it, you know, at the Commission level,
24 was this official work done correctly, then I can say yes.
25 Yes, it was. Because we supervised it appropriately.

1 So, we are working through that.

2 Page 16 through 19 of your materials, and I
3 think we are on the next agenda item here. Sorry, Judge
4 Pate. Let me see. Yes.

5 On page 16 through 19 of your materials, you
6 have copies of the letters that the Agency sent to each
7 one of the tracks. So we sent letters to two active
8 tracks, starting with Gillespie County Fair and Festivals.
9 They are due for a five-year annual review under Chapter
10 2025 of the Texas Racing Act.

11 Retama Park follows. And with the next slide,
12 they are also due for that five-year review. And both of
13 those will be scheduled at the August 2023 Commission
14 meeting.

15 And in looking at those, I mean, there is --
16 back to what Judge Pate said, I mean, we have in our
17 current training area boxes that Mona, our new Government
18 Relations legislative coordinator which -- we are really
19 glad to have you on the team, Mona -- and some other folks
20 pulled out all the records.

21 And our intent is to go through, not just with
22 the active tracks, but with the inactive licenses and the
23 other licenses, and really make sure that the Commission
24 has complete records. The licensee has the complete
25 records. And that we feel comfortable making a strong

1 staff recommendation on what the status of each license
2 is.

3 So, moving forward, if you look at page -- at
4 the next page, which is page 20 of your materials, there
5 are letters here that read in a similar fashion to Laredo
6 Downs, Valle de los Tesoros, Manor Downs, Gulf Coast
7 Racing, Gulf Greyhound Park, and Valley Race Park. And
8 all those facilities, when we were asked -- what sort of
9 drove this was we were asked by one of the legislative
10 offices what is the status of all the licenses.

11 And quite frankly, I sent a letter and then had
12 to correct that letter. And then found there was other
13 issues, just with documentation. So in the conversation
14 with Judge Pate and talking about how to kind of keep
15 everyone operating, you know, in the status quo that they
16 are in, it is fair to go through.

17 And I am planning to visit where there is
18 physical locations, or sit down with all of the
19 representatives of these license and make sure that we go
20 forward and make a recommendation on the status of their
21 license, that they are fully informed on and absolutely
22 have the opportunity to public comment on, when we get to
23 that point in our meetings.

24 So all facilities will be reviewed to determine
25 whether they are active operating, active other, or

1 inactive. And unless the Commission has any additional
2 questions, this concludes my report.

3 CHAIRMAN PATE: Amy, I want to mention one
4 thing. What I told Amy is that, I didn't think it was
5 appropriate, and I don't think the Texas Racing
6 Commission, we are not going to advocate for the federal
7 government to come in and do anything. But if Congress
8 shows an interest in establishing some national rules,
9 then I expected that we would contribute our views on it,
10 and help shape that. So that if it was coming anyway,
11 that it worked for Texas.

12 And so, I just want to make sure that everybody
13 understands that is kind of the collars we are putting on
14 it. We are not advocating that that occur. But if it is
15 coming, if we are getting contacts, and there is something
16 coming, then we will try to work with them and make sure
17 that our concerns are met in whatever the statute is that
18 comes out from the feds.

19 MS. COOK: And I don't think it is any secret.
20 And I think I have told a number of folks this, when Ms.
21 Lazarus visited. I mean, I really think they have had a
22 resourcing problem all the way along.

23 And listening to the other state racing
24 commissions discuss facts such as the HISA assessment
25 exceeds, well exceeds their racing commission budget for

1 the entire year. And no one really being in a position to
2 pay for it in that way, that the resourcing is sort of
3 backwards.

4 And so, to the extent that it is appropriate,
5 really recommending the same sort of cooperative agreement
6 model. And the good thing about that is each state,
7 including Texas, can choose whether or not that is right
8 for Texas.

9 And just like the HISA law actually effectually
10 operates, we can opt in or not opt in. And it is not
11 mandated, you know, that we do a certain thing. So, I
12 think that is good for everyone.

13 So thank you for those comments, Judge Pate.

14 CHAIRMAN PATE: All right. Commissioners, do
15 you have any other questions?

16 COMMISSIONER MACH: I just wanted to comment,
17 and compliment you on your outstanding leadership. It is
18 hard to believe it has been a year. Although it seems
19 like it could've been longer, and not in a bad way.

20 You have really raised the bar a lot. And
21 you're an inspirational leader to the Agency, and it
22 shows. So, thank you.

23 MS. COOK: Thank you, Commissioner Mach.
24 Appreciate that.

25 CHAIRMAN PATE: Thank you, Commissioner.

1 Anything else?

2 (No response.)

3 CHAIRMAN PATE: Thank you, Amy.

4 Moving on to Agenda Item 6A, discussion of --
5 this is discussion and possible action on the allocation
6 of live race dates for racetracks for 2023 through 2027
7 under the Texas Racing Act, Chapter 2029, and 16 the
8 Administrative Code, Section 303.41.

9 Amy, please address this item.

10 MS. COOK: Thank you, Judge Pate.

11 So page 33 of your materials has the draft race
12 date calendar for January through December of 2023.
13 Behind that, you will see that, as you may recall from our
14 previous Commission meeting, we have opened up the window,
15 so that all race tracks can apply for dates all the way
16 through 2027.

17 So what you will see initially in 2023 is all
18 of the dates for our Class One tracks, as well as a couple
19 of greyhound track requests from Gulf Coast Racing and
20 Valley Race Park on that calendar. The applications are
21 also in the meeting materials.

22 I have to work with my industry folks, because
23 we have a concurrence page, and everyone signs it
24 separately. So that means there is ten concurrence pages,
25 or maybe twelve on every single application, which makes

1 these materials fairly long.

2 But page 34 through 37 have all those race date
3 calendars. Page 36 has Lone Star Park's race date
4 application. Page 51 has the race date application for
5 Sam Houston Race Track.

6 On page 67, I really want to point out
7 something important. Gillespie County Fair Association,
8 you know, is a charity race track. And having been out
9 there a number of times, and having made a video, thanks
10 Leonard, of that great team. You know, one of the sort of
11 friction points that I didn't realize was problematic was
12 between Retama Park and Gillespie County Fair.

13 And so, there is about -- it is probably about
14 a two hour, maybe a 90-minute drive between the two
15 tracks. And we found ourselves this year -- on July 2nd,
16 we had three race tracks running, which we never should do
17 again, especially with the level of staffing we had.

18 We had a full staff at Lone Star Park in Grand
19 Prairie. We had racing in San Antonio. And we had racing
20 in Fredericksburg. So I literally had people racing
21 between all these tracks.

22 And so this year, I was really concerned about
23 bringing Retama dates and Gillespie County Fair dates,
24 which are always the same, every year, as they told me.
25 It has been that way for like, 20 years, you know,

1 together.

2 So what ended up happening was, Angela Cooper,
3 who I want to recognize, has decided to make Gillespie
4 County Fair Association one of their charity days. And
5 the charity days, as Commissioner McNabb has brought up,
6 are really important to show the good work that is being
7 done.

8 And the charities can be almost any
9 organization. But the fact that Retama not only worked
10 with Gillespie on the dates that they recommended, but the
11 fact that they also made one of their charity days a
12 beneficiary -- made Gillespie a beneficiary of one of
13 their charity days, was a really admirable thing that
14 Angela Cooper did, from Retama. So, I just wanted to
15 point that out.

16 So page 81 through 106 is the Gillespie County
17 Fair applications. Now this race track has applied for
18 all five years, because they race the same dates every
19 year. The other tracks have only asked for one year.

20 And then, you have some greyhound track
21 requests for 2023. And I will talk about those in a
22 moment: Gulf Coast Racing, which is in part two of the
23 materials, or page 107; Valley Race Park on page 114.

24 And then, you have some real interesting great
25 comeback stories coming here. So, Valle de los Tesoros is

1 requesting 2027 race dates. And Laredo Downs is
2 requesting 2027 race dates.

3 So, if you remember in the rules, you have got
4 current active track licenses that are requesting dates.
5 Then you have tracks that may have been inactive, that
6 want to go to active operating, or may want to get into a
7 pre-simulcasting position as they are bringing themselves
8 back to being an active track. So that is some of their
9 requests that you see here.

10 After careful staff review of all these
11 requests, pursuant to Chapter 2029 in the Texas Racing Act
12 and the Texas Rules of Racing, I recommend approval of all
13 submitted live race dates for 2023 through 2027.

14 CHAIRMAN PATE: Thank you, Amy.

15 Commissioners, do you have any questions? This
16 is on staff recommendation.

17 COMMISSIONER McNABB: I just have a comment. I
18 do appreciate the cooperation between the tracks. Some of
19 what we heard, firsthand, not just our own staff, but when
20 you -- especially between Gillespie and Retama.

21 If people were riding in the summertime in
22 Texas in the afternoon and then driving at unsafe speeds
23 to then go ride a full card of races that evening, we had
24 people who probably dehydrated, way too hot, you know.
25 Difficult driving conditions might be interfacing with

1 folks who have been touring the wine country that makes
2 for more obstacles. But it gets down to health and
3 welfare, not just the racing animals, but the people.

4 And that is what horrified us, that we had a
5 situation that knock on wood, and thank you god that had
6 not turned into an absolute tragedy. But you know, gate
7 crew, riders, trainers, horses, high speed anything up and
8 down the roads in the middle of summer in Texas just was a
9 recipe for disaster.

10 So we do understand that that made for some
11 business decisions and a certain amount of friction. But
12 I think, as we start to have more tracks in Texas, taking
13 a look. You know, these two tracks are fairly close
14 together.

15 But you know, that is something that we are
16 going to be looking at. Because we don't want to have
17 somebody who feels so pressured that they have to take
18 their life in their hands to make a crazy drive, just
19 because we failed to really deconflict.

20 So we want people to be able to compete, give
21 everything that they have got when they are out there on
22 the track. But we also don't want to put people in a
23 situation where they have to put their life in their hands
24 just so they can make a race.

25 So, thank you, Amy. And I do appreciate the

1 tracks working to --

2 CHAIRMAN PATE: Thank you, Commissioner. Any
3 other Commissioner comments?

4 (No response.)

5 CHAIRMAN PATE: Phil, has anyone signed up for
6 public comment on the allocation of live race dates?

7 MR. FOUNTAIN: Sir. We have one card.
8 Resource only, Tommy Azopardi, if there is any questions
9 related to Valle de los --

10 CHAIRMAN PATE: Does anybody have any questions
11 of Mr. Azopardi?

12 (No response.)

13 CHAIRMAN PATE: Thank you for the offer.

14 If there is no further discussion or public
15 comment, the Chair will now entertain a motion on staff's
16 recommendation for the approval of the allocation of live
17 race and charity race dates for racetracks, 2023 through
18 2027, under Texas Racing Act and rules.

19 COMMISSIONER McNABB: I so move.

20 COMMISSIONER MACH: Second.

21 CHAIRMAN PATE: Motion by Commissioner McNabb.

22 Second by Commissioner Mach. Any further discussion?

23 (No response.)

24 CHAIRMAN PATE: All those in favor, please say
25 aye.

1 (A chorus of ayes.)

2 CHAIRMAN PATE: Any opposed?

3 (No response.)

4 CHAIRMAN PATE: The motion passes.

5 The next Agenda Item is Item 5B, racetrack
6 proceedings, discussion and possible action on LRP Group,
7 Limited, also known as Laredo Downs, request to change
8 location under 16 Texas Administrative Code Section
9 309.12.

10 Amy, please address this agenda item.

11 MS. COOK: Good morning again.

12 Part 3, page 152 of your meeting materials, is
13 a Laredo Downs letter requesting a change in racing
14 location under 16 Texas Administrative Code Section
15 309.12. This item was originally requested for
16 consideration on the August 24th agenda. However, with
17 the cancellation of the meeting, it was moved to the
18 December agenda.

19 As some background for the Commission, when the
20 license for Laredo Downs was first issued, the proposed
21 location was on Highway 59 in Laredo, Webb County, Texas,
22 where LRP Group Limited had an option on approximately 125
23 acres of land. The option on that site expired and was
24 not renewed by the seller.

25 There were originally two Class Two racetracks

1 approved by the Commission for Laredo, Webb County. The
2 other license two racetrack known as Laredo Race Park was
3 proposed to be located on a tract on FM 1472, which, like
4 the Laredo Downs initial site was determined by the
5 Commission to be an appropriate location for Laredo Race
6 Park.

7 Both of these licenses had been issued at
8 approximately the same time. In 2018, Laredo Race Park
9 surrendered its license for its proposed site on FM 1472,
10 with the owners acquiring Manor Downs in Travis County.

11 Heading east, down FM 1472, another one and a
12 half miles from the prior Laredo Race Park site, certain
13 owners of LRP Group own roughly 12,000 acres of rural
14 undeveloped land, formerly known as Delores Ranch. LRP
15 Group Limited initially obtained an option for a tract of
16 the Delores Ranch, after Laredo Park surrendered its
17 license for the purpose of relocating Laredo Downs.

18 LRP Group Limited now has a 20 year lease on
19 150 acre tract out of that 12,000 acre property. And it
20 is requesting the Commission approve the 150 acre tract
21 for relocation of Laredo Downs.

22 We have reviewed this correspondence. We have
23 also looked at all other current filings for this
24 racetrack license. All the background checks, and
25 financial documents are at the Commission level and are in

1 good shape.

2 So after review of this request, I recommend
3 approval of the LRP Group Limited's request to change
4 location of their racetrack license.

5 CHAIRMAN PATE: Thank you, Amy.

6 Commissioners, do you have any questions?

7 (No response.)

8 CHAIRMAN PATE: Phil, is there anyone signed up
9 for public comment on the discussion and possible action
10 on the LRP Group, Limited, also known as Laredo Downs,
11 request to change location?

12 MR. FOUNTAIN: Yes, sir. Tommy Azopardi,
13 resource only.

14 CHAIRMAN PATE: All right. Does anybody have
15 any questions of Mr. Azopardi with respect to this matter?

16 (No response.)

17 CHAIRMAN PATE: Again, thank you for your
18 offer.

19 If there is no further discussion or public
20 comment, the Chair will now entertain a motion on staff's
21 recommendation for the LRP Group Limited, also known as
22 Laredo Downs, request to change location under 16 Texas
23 Administrative Code Section 309.12.

24 COMMISSIONER MACH: I will make the motion.

25 CHAIRMAN PATE: Motion made by Commissioner

1 Mach.

2 COMMISSIONER McNABB: I will second.

3 CHAIRMAN PATE: Second by Commissioner McNabb.

4 Is there any further discussion?

5 (No response.)

6 CHAIRMAN PATE: Hearing none, all those in
7 favor, signify by saying aye.

8 (A chorus of ayes.)

9 CHAIRMAN PATE: Any opposed?

10 (No response.)

11 CHAIRMAN PATE: The motion carries.

12 The next item would be, let's see, I guess it
13 is Item 7. The discussion and possible action to allocate
14 funds in the Horse Industry Escrow Account to state breed
15 registries for events to further the horse industry under
16 16 TAC Chapter 303, Subchapter G.

17 Virginia, I know you have been asked to outline
18 these. There are a lot of them. I am going to request
19 you be pretty much in favor of them, I think. But there
20 are a lot of them --

21 MS. FIELDS: Yes, sir.

22 CHAIRMAN PATE: -- so be as efficient as you
23 can.

24 MS. FIELDS: I will, sir.

25 CHAIRMAN PATE: Thank you.

1 MS. FIELDS: Commissioners, General Counsel,
2 Virginia Fields. I am here to present Agenda Item 7, for
3 the breed registries event applications under the Horse
4 Industry Escrow Account.

5 This is my first time to present the event
6 applications. And after a review of the materials, I
7 recognized I had a real privilege and opportunity to
8 present the Commission with some holiday good news on the
9 agenda.

10 It has been two years since the inception of
11 the Horse Industry Escrow Account. Although the
12 beneficial impact of the program is yet to be fully
13 realized in the short span of two years, the economic
14 benefit to the state, to the racetracks, and to the equine
15 constituents is growing, and is certainly good news to
16 deliver.

17 Of course, staff could not tell this good news
18 holiday story whereof the implementation, and these
19 current events today involving the Horse Industry Escrow
20 Account, without acknowledging our Chair and Commissioner
21 Tim Kleinschmidt and their unrelenting efforts, as well as
22 in implementing an instrumental program itself. We are
23 most grateful to the Commissioners and their team for
24 their support to the Agency.

25 Moving on to the specific events for today.

1 The events applied for by the breed registries are events
2 that have been approved in the past by the Commission in
3 2020 and 2021, under Chapter 2028 of the Racing Act. The
4 state horse breed registries applications before you today
5 may apply for the receipt of money in the Horse Industry
6 Escrow Account for any event that furthers the horse
7 industry.

8 I will be presenting each breed registry
9 submission for the Commission. In reviewing these
10 applications, the Commission should consider the purse
11 levels, racing opportunities, and the financial status of
12 the requesting breed registry.

13 CHAIRMAN PATE: Virginia. Excuse me. I will
14 tell you what we do.

15 I am going to let you go through all of them.
16 We will take them all up on one motion at the end.

17 MS. FIELDS: Okay.

18 CHAIRMAN PATE: All right.

19 MS. FIELDS: Okay. At the end of the
20 submissions then, I will submit for questions at the end
21 of the full presentation. I will be recommending approval
22 of these applications before you today, then.

23 I will briefly summarize each one, starting
24 with the four event applications that have been submitted
25 by the Texas Quarter Horse Association. Their first event

1 in your materials begins under Tab 7(A) (a), on page 182.

2 For the Texas Quarter Horse Association State
3 Championship Year End Awards, with the TQHA applying for
4 HIEA funding in the amount of \$57,000. The breakdown of
5 the event expense categories is on page 184 of your
6 materials.

7 The funding of the event is to occur in
8 September of 2020, but the approval is sought now to
9 announce and market the program, to exhibitors with the
10 objective to increase the number of Texas shows to earn
11 the awards by the Year End Award program. This award
12 program began in 2021, and has been very successful in
13 increasing participation in shows sponsored by the TQHA
14 and various affiliates across Texas.

15 The second event application in your materials
16 begins under small tab (b) on page 195 for the TQHA 2023
17 Quarter Horse Meet at Sam Houston Race Park for the Texas
18 accredited bred owners, breeders, and stallion awards, in
19 the amount of \$505,000. The breakdown of the event
20 expense categories is on page 197 of your materials.

21 The funding of this event is April of 2023, and
22 is to be used to increase incentive money to the owners,
23 breeders, and stallion owners of accredited Texas bred
24 horses that finish first, second, and third in a Texas
25 parimutuel race during the 2023 Sam Houston Quarter Horse

1 Meet, beginning April 21, 2023, until June 17. These
2 funds will supplement the current accredited Texas bred
3 incentive award payouts mandated by the Texas Racing Act
4 under 2030.004.

5 The \$500,000 earmarked as awards will be
6 allocated 40 percent to the owner award, 40 percent to the
7 breeder award, and 20 percent to the stallion owner award.

8 By increasing the Texas bred awards to owners, breeders,
9 and stallion owners of the Texas bred horses, Texas will
10 be in a more competitive position with surrounding states
11 that supplement their state bred awards with slot machine
12 revenue.

13 The third Texas Quarter Horse Association event
14 application in your materials is under (c) tab on page
15 201, for the Sam Houston Race Park stakes, in the amount
16 of \$300,000. The breakdown of the event expense
17 categories is contained on page 203 of your materials.

18 The funding of this event is March 2023, to
19 improve the Sam Houston stakes program with an emphasis on
20 Texas bred races. Their signature race days including but
21 not limited to the Jesse Yoakum Memorial Stakes Race, the
22 John Buchanan Memorial Stakes Race, and the Leonard Baird
23 Memorial Stakes Race, which will increase entries and the
24 resulting handle.

25 The fourth and final TQHA event application in

1 your materials begins under (d) tab on page 214 for the
2 National Cutting Horse Association SuperStakes and
3 SuperStakes Classic in the amount of \$100,500. For those
4 watching who may not know, a cutting horse is a horse
5 trained in separating cattle from the herd.

6 The breakdown of the event expense categories
7 is on page 216. And the funding for the event is also
8 March of 2023. The National Cutting Horse Association
9 produces three shows annually that together comprise the
10 Triple Crown of cutting.

11 All three shows within the Triple Crown are
12 designed to promote the breeding, owning, and showing of
13 some of the best young equine athletes in the world. The
14 second leg of the Triple Crown, and the SuperStakes and
15 the SuperStakes Classic, it will be held in Fort Worth,
16 Texas, from March 23 to April 15 of 2023.

17 This concludes all the Texas Quarter Horse. If
18 there are any interim questions from the Commission with
19 regard to these applications, Rob Werstler with the Texas
20 Quarter Horse Association is also here as a resource.

21 Any questions on Texas Quarter Horse?

22 (No response.)

23 CHAIRMAN PATE: No, let's --

24 MS. FIELDS: Moving on. Under large section
25 (B) in your materials begin the six event applications

1 submitted by the Texas Thoroughbred Association. The
2 first event application under Tab B, subsection (a),
3 begins on page 221 for the 2023 Thoroughbred Meet at Sam
4 Houston Race Park, in the amount of \$1,465,255, with
5 funding to start this month, and January of 2023 for the
6 Sam Houston Meet that begins January 6th.

7 The breakdown for the event expense categories
8 on this application begins on page 223 of your materials.

9 And the focus of the event funding will be the stakes
10 program with an emphasis on Texas bred horses.

11 Wagering promotions will benefit handle,
12 increase media exposure, and grassroots marketing will
13 attract more patrons, thereby increasing interest in
14 accredited Texas bred program with the resulting benefit
15 to the Texas equine breeding.

16 The second event submitted by the Texas
17 Thoroughbred Association begins under Tab (b) on page 226
18 of your materials, for the 2023 Statewide Thoroughbred
19 Marketing Plan, in the amount of \$120,000. The funding to
20 begin this month, and continue through July of 2023 for
21 several separate events, beginning with the opening of Sam
22 Houston Race Park in their Thoroughbred meet, the Texas
23 Champions Day, the Texas Two Year Old Sale, the Lone Star
24 Million Day, and the Texas Yearling Sale.

25 The breakdown of expense categories for this

1 request is on page 228 of your materials. The primary
2 driver of events is to bring exposure to Texas racing and
3 breeding to prospective owners and other racing
4 participants. These events will increase attendance and
5 handle for 2023. Increased handle furthers the purses and
6 the ATB incentive program.

7 The third event application submitted by the
8 Texas Thoroughbred Association is under Tab (c) of your
9 materials, and it begins on page 230. It is for the 2023
10 Thoroughbred Meet at Lone Star Park, and is in the amount
11 of \$1,465,250, with funding to begin in March of 2023.

12 The breakdown of the expense categories is
13 contained on page 232. The funding will supplement purses
14 for the Lone Star Million Day on Memorial Day, and places
15 emphasis on Texas bred races, including the Lone Star
16 Showcase Day, Stars of Texas Day, and the Summer Turf
17 Festival.

18 The project will also work with export partners
19 TGV and DRF to promote Lone Star Park to a nationwide
20 audience, leading to increased export handle, with big
21 item giveaways to generate greater attendance. Also
22 including live music and family fun activities.

23 The fourth Texas Thoroughbred Association
24 application under Tab (d) of your materials begins on page
25 234. And this is for the 2023 Texas Sired, Texas Bred

1 Bonus for Success and Open Company Races in Texas. And it
2 is in the amount of \$103,525, with funding to begin again
3 in March of 2023.

4 This is a continuation of the ATB bonus paid to
5 owners of Texas accredited, Texas bred thoroughbred
6 racehorses, sired by accredited Texas stallions that place
7 first, second, and third in any open company race.
8 Limiting awards to open company races encourages the
9 breeding of more competitive racehorses.

10 The breakdown of the event category is on page
11 236. Renewing this bonus of the 2023 Thoroughbred Meets
12 in Texas will draw attention to the increased earning
13 potential of accredited Texas bred horses, especially
14 those sired by ATB stallions. This will attract more
15 brood mares to the state, increasing the number of mares
16 bred by Texas stallions, and foals born in Texas.

17 The fifth event and application begins under
18 Tab (d) of the materials, and begins on page 238, for the
19 ATB breeder awards for accredited Texas bred horses racing
20 out of state in 2023, in the amount of \$101,125 for the
21 funding to begin in January 2024.

22 The breakdown of the event expense categories
23 is on page 240 for this application. Owners of accredited
24 Texas bred horses may run their horses out of state, and
25 enjoy the benefits of purse money earned. But without

1 this incentive, breeders get nothing for out-of-state
2 races.

3 Payment of the ATB breeders awards on
4 out-of-state racing will encourage mare owners to breed
5 with the goal of producing more racehorses, in order to
6 reap the benefits of the ATB awards, and increase the sale
7 value of Texas bred. These additional funds will enable
8 Texas breeders to sustain and grow their breeding
9 business.

10 The final application submitted by the Texas
11 Thoroughbred Association is for the 2023 ATB Breeder Bonus
12 for Success in Open Company Races in Texas, under Tab (f)
13 beginning page 242. Seeking funding in the amount of
14 \$303,525 with funding to begin in April of 2023.

15 The breakdown of expense categories is on page
16 245. The Texas Racing Act 2030.004 provides an accredited
17 Texas bred thoroughbred horse that finishes first, second,
18 or third in a race other than a Texas bred race is
19 entitled to receive an owners bonus award as a purse
20 supplement. This bonus is in addition to the regular ATB
21 owners award.

22 Bonus awards for success in open company races
23 were implemented in 2002 to encourage ATB horses to
24 compete in open company, which is generally regarded as
25 being more competitive. This initiative will provide

1 \$302,000 in 2023 to be put back into the Texas economy
2 through the purchases of fuel, feed, bedding, equipment,
3 grooming products, insurance, facilities expenses,
4 veterinary services, farrier, and labor.

5 This concludes for the Texas Thoroughbred
6 Association. I can move on if there are no questions.

7 (No response.)

8 MS. FIELDS: Moving on. The next two event
9 applications are submitted by the Texas Paint Horse
10 Breeders Association for Commission approval.

11 The first event application under large (C)
12 subtab (a) for the 2023 APHA World Championship Show, in
13 the amount of \$175,000 for funding in May of 2023. The
14 breakdown of the expense categories is contained on page
15 258.

16 The APHA World Championship Show is the title
17 event for American Paint Horse Association. And it is
18 held at the Will Rogers Memorial Center in Fort Worth. In
19 2022, 354 classes were offered, with 256 world
20 championship titles awarded to open, amateur, and youth
21 competitors exhibiting a total of 1,094 horses.

22 It is expected that the number of horses
23 participating in 2023 will increase to nearly 1,200
24 participating. The event will add prizes and awards to
25 open and amateur classes, the reining challenge, the ranch

1 and roping sweepstakes, the cutting challenge, and the
2 working cowhorse challenge.

3 The second event submitted by the Texas Paint
4 Horse Breeders Association for Commission approval under
5 Tab (C) (b), beginning on page 262 of your materials, is
6 for the 2023 Cowgirl Gathering in the amount of \$130,000,
7 with funding in February of 2023.

8 The breakdown of event expense categories is on
9 page 264. The American Paint Horse Association will
10 oversee the development, organization, and execution of a
11 premier series of events in November of 2023, showcasing
12 women and horses.

13 The events are to be billed as the world Fort
14 Worth Stockyards Cowgirl Gathering. Highlights of the
15 three-day event will be barrel racing, breakaway roping,
16 all-girl team roping, and an equine educational summit
17 design to enlighten all levels of horsemen and horsewomen.

18 The event for 2023 will be held May 12 and 14th in Fort
19 Worth.

20 This concludes for the Texas Paint Horse
21 Breeders Association. Any questions?

22 (No response.)

23 MS. FIELDS: Moving on to the final submission
24 by the Texas Arabian Breeders Association. The final
25 breed registry submissions for the two event applications,

1 again, from the Texas Arabian Breeders Association. The
2 Arabians applications are under subtab (D), with a first
3 application under (a) beginning on page 268 of your
4 materials.

5 The first event is the 2023 Arabian Stakes
6 Night at Sam Houston Race Park. It is going to be held
7 February 25, 2023. They are applying for funding in the
8 amount of \$63,540.

9 The monies will be supplemental purses for the
10 Arabian Yellow Rose Race for four- and five-year-old
11 fillies and mares, and for Arabian six year race, which is
12 four- and five-year-olds. The breakdown of the expense
13 categories is on page 270.

14 The second and the last event application for
15 presentation today is on page 272 of your materials from
16 the Texas Arabian Breeders Association. And it is for the
17 Arabian Darley Awards and is in the amount of \$82,540,
18 with funding in February of 2023. The breakdown of the
19 event expense categories is on page 274.

20 The Texas Arabian Breeders Association will be
21 joining the Arabian Racing Cup to host the prestigious
22 Arabian Darley Awards at Sam Houston Race Park on March
23 19, 2023. There are two stakes races scheduled for that
24 night: the Darley Distaff for fillies and mares, and the
25 Darley Sprint.

1 This is planned to be the only Arabian stakes
2 on the turf in the United States. This will be -- there
3 will also be a stallion auction and other exciting
4 activities planned for the evening, including the
5 presentation of the annual Darley Awards.

6 This concludes for the Texas Arabians.
7 Commissioners, if there are no further questions, staff
8 will recommend that you approve these HIEA event
9 applications from the Texas Quarter Horse, the Texas
10 Thoroughbred, the Texas Paint Horse Breeders Association,
11 and the Texas Arabian Breeders Association. And we
12 recommend approval.

13 CHAIRMAN PATE: All right. Thank you,
14 Virginia. I do have just one question.

15 I presume that Dinorah has taken a look at the
16 inflow of the money that is coming in, and the outflow.
17 And it is all scheduled that we will have this money to
18 make the distributions the way we are going?

19 MS. FIELDS: Yes, sir. And the hope is we can
20 give you a full year in the next Commission meeting of how
21 those monies --

22 CHAIRMAN PATE: Okay. Commissioners, do any of
23 you have any questions.

24 COMMISSIONER McNABB: I just have two comments.
25 First, to all of the legislators who made this program

1 possible, this is a huge boost for the equine industry,
2 agriculture in Texas.

3 You know, having made my living out there in
4 the barns and on the farms. People invest a tremendous
5 amount of money in everything that makes it not only more
6 fun, but in whether you go because they give really nice
7 belt buckles, or you are coming to a race because it is
8 the earnings. There is a lot of second and third order
9 effects.

10 People choose a stallion on how much money has
11 that horse made. And so all of these things that really
12 supplement this, this is huge for building up an industry
13 that Texas is a natural. This is the place. If you want
14 to have horses, it doesn't get any better than Texas.

15 So this is a tremendous thing. I know that
16 Commissioner Kleinschmidt has been very involved in this
17 from the get go. But all the legislators who supported
18 this, and made this happen, thank you, thank you. This is
19 tremendous for the industry.

20 One request to the representatives from the
21 different components. If you will help us help you help
22 us. If you would take this -- if we could have a
23 spreadsheet that just gives us the who, what, when, where
24 and how, that way our legislative liaison team, if there
25 is an event that is happening in an area where an elected

1 official made this happen, it might be nice for us to let
2 them know, hey, this is a neat thing.

3 Let us get the word out, because this is a
4 great story that needs to be told. And I think -- and
5 also if Commissioners can see that something is happening
6 in their neighborhood and they want to go out and just do
7 some eyes on. You can call it public accountability of
8 Government funds, or just a really great time at a horse
9 show.

10 But if you could please give us those summaries
11 with details of who, what, where. Because if indeed, a
12 Senator, or Representative is coming, we would like to
13 make sure that that is coordinated. That would help us a
14 lot. Thank you.

15 CHAIRMAN PATE: Thank you, Commissioner.
16 Anybody else have any comments, Commissioners?

17 (No response.)

18 CHAIRMAN PATE: Phil, has anyone signed up for
19 public comment on the Commission's approval of breed
20 association event applications?

21 MR. FOUNTAIN: Yes. Mary Ruyle, resource only.

22 CHAIRMAN PATE: Does anybody need to ask Mary
23 questions?

24 (No response.)

25 CHAIRMAN PATE: Thank you for your offer,

1 appreciate it.

2 If there is no further discussion or public
3 comment, the Chair will entertain a motion on staff's
4 recommendation to approve each and every, all and
5 singular, of the breed event applications as outlined by
6 Virginia, submitted for year end 2022 and 2023.

7 COMMISSIONER McNABB: So moved.

8

9 COMMISSIONER MACH: Second.

10 CHAIRMAN PATE: Motion by McNabb. Second by
11 Mach. Is there any further discussion?

12 (No response.)

13 CHAIRMAN PATE: Hearing none, all those in
14 favor, vote by saying aye.

15 (A chorus of ayes.)

16 CHAIRMAN PATE: Any opposed?

17 (No response.)

18 CHAIRMAN PATE: The motion carries. All right.

19 Moving on to Item 8. The next Agenda Item is
20 Item 8, a presentation by the representatives of the Texas
21 Greyhound Association on a proposal for amending Rule
22 303.102 after the Agency's receipt of the Attorney
23 General's opinion on disbursements under the Rules of the
24 Racing.

25 I have asked Virginia to outline briefly the

1 original dispute and the content of the Office of Attorney
2 General's opinion. Following Virginia's comments, just to
3 set this up in everybody's recollection, we have Kevin
4 Vickers here, as I understand it? Is he the only person?

5 MR. FOUNTAIN: No, sir. We also have a card
6 from Billy Galbreath of the Texas Greyhound Association.

7 CHAIRMAN PATE: Okay. Well, I will be
8 allocating a total amount of time of up to ten minutes
9 each for your presentation.

10 So anyway, Virginia, go ahead.

11 MS. FIELDS: Commissioners, again --

12 CHAIRMAN PATE: I am sorry. This is a non-
13 voting item for a number of reasons, most recent of which
14 is that we are currently under a Rules review. And so,
15 that is part of it.

16 And part of it is because of the Attorney
17 General's opinion that we have with respect to what they
18 were requesting. And so, that is where we are.

19 Go ahead.

20 MS. FIELDS: Thank you, sir.

21 Commissioners, again for the record, Virginia
22 Fields, General Counsel. I am just here to introduce
23 Agenda Item 8, again, a non-action item on the agenda.

24 In December of 2021, the Agency submitted an
25 opinion request to the Attorney General's Office at the

1 request of the Commission Chair. This opinion request is
2 in your materials, and it begins on page 278.

3 The request essentially was whether the
4 Commission could distribute Escrow purse moneys from March
5 1, 2020, to August 31, of 2021, in retroactive proportions
6 to owners of kennels in Texas bred greyhounds that
7 participated in the last 2020 Greyhound meet run in Texas.

8 And whether that was permissible for future distributions
9 given the current state of greyhound racing in Texas.

10 The Racing Act differentiates between
11 interstate cross species simulcast and intrastate cross
12 species simulcast. The Racing Act requires paying 5.5
13 percent interstate simulcast into Escrow for purse funds.

14 The Act also requires paying 5.5 percent of intrastate
15 simulcast purse amounts sent from the horse race track
16 association directly "to the racetrack conducting the live
17 race that is being simulcast."

18 The Act has two clear directives regarding the
19 use of the 5.5 percent purse amounts. First, a purse "in
20 the amount of 5.5 percent is to be paid to the official
21 state greyhound breed registry for use at racetracks at
22 the state." This is Section 2028.202. Second, the TGA
23 can use up to 20 percent of the Escrow purse money to
24 administer the allocation of these purse monies.

25 Aside from the Racing Act, the TGA has proposed

1 an allocation for distribution and amendment to Rule
2 303.102(d), which is entitled Distribution of Purse Money.

3 And they propose, from the cross species simulcasting --
4 and they are seeking by amendment to distribute the monies
5 to certain kennel owners from the interstate simulcasting
6 at Texas horse race tracks.

7 The Attorney General responded to our opinion
8 request on September 20, 2022. The AG's opinion is
9 contained in the meeting materials, beginning on page 287.

10 Essentially, the AG's opinion provides that the
11 distribution of funds should be to the racetracks, and
12 they cite the Racing Act, 2028.202.

13 Citing the Rules of Race today, the Attorney
14 General cites the first sentence of 303.102(d), which says
15 "to enhance live racing opportunities at Texas greyhound
16 tracks, TGA shall pay to each greyhound race track the
17 purse money it collects."

18 Staff has included as the last page of the
19 agenda item in public comment that was also received from
20 the TGA Board member relative to this agenda item today.
21 And also included is an email that was put into your
22 notebooks today. It is not part of the meeting materials,
23 but another public comment that was received day before
24 yesterday from the National Greyhound Association.

25 Lastly, Kevin Vickers, of course, is here today

1 with the Texas Greyhound Association to provide
2 Commissioners further background. And I will just close
3 my remarks noting that it is a non-action item. I
4 appreciate it. I am happy to answer any questions.

5 CHAIRMAN PATE: All right. So, all right,
6 thank you. All right, Mr. Vickers.

7 MR. VICKERS: Good morning. Thank you. For
8 the record, Kevin Vickers with the law firm of Brady &
9 Peavey. I am here on behalf of the Texas Greyhound
10 Association, TGA.

11 I was going to discuss a bunch of the
12 background here, just to set the scene. Because while I
13 think some of you guys may have it in your heads, others
14 may not. Virginia covered it fairly well, so I don't want
15 to repeat too much.

16 But I do want to take a step back a little
17 further in time prior to the request of the AG's opinion.

18 Because really this starts in 2020. The last live
19 greyhound race that was run in Texas ended in February
20 2020.

21 The current Commission rules say that every
22 year the TGA is supposed to propose an allocation of these
23 cross species interstate simulcast monies. And after that
24 2020 meet in February, the TGA wanted to propose
25 allocating them as the rule proposal outlined that we have

1 to really kind of suggest to participants, kennel owners,
2 and greyhound owners that participated in that February
3 2020 meet.

4 The reason that TGA wanted to do that -- as
5 opposed to what has typically been done, which is to
6 allocate these funds for future meets -- is because TGA
7 was aware of the fact that although there were race dates
8 on the calendar, those races would not actually be run.
9 And the facts bear that out.

10 In August 2020, races were on the calendar but
11 weren't actually run. TGA, again, wanted to make this
12 allocation to those participants in the February 2020
13 meet. They were told towards the end of 2020 that it
14 would be best to propose allocating them for the August
15 2021 meet. With the contingency that if the August 2021
16 meet did not occur, then the funds would remain in TGA's
17 Escrow bank account.

18 So, to be clear, TGA is currently holding these
19 funds in the Escrow bank account. Commissioner
20 Kleinschmidt made that motion in 2021. That was adopted
21 by this Commission.

22 Lo and behold, August 2021 came around, and
23 that meet, although scheduled, also did not actually
24 occur. So the money stayed in TGA's bank account.

25 So then in the fall of 2021, just before that

1 opinion request was submitted that Virginia referenced --
2 the AG opinion request was submitted in December. Just
3 before that, TGA again proposed that the funds that had
4 accumulated up to that point be allocated to the kennel
5 owners and dog owners that had participated in the
6 February 2020 meet, the last live race in Texas -- the
7 only live race we have to work with, as a practical
8 matter.

9 And at that time, the Commission took it up in
10 December, basically a year ago. And postponed
11 consideration of that proposal while the Commission waited
12 on the AG's opinion.

13 The AG's opinion was scheduled, but they had a
14 deadline to come out in May of 2022, May of this year.
15 They blew that deadline, and as Virginia referenced, it
16 actually happened in September of 2022.

17 So I go through this just to emphasize, this
18 has been a long painful two-plus year struggle for the TGA
19 to try and get the appropriate use of these funds, and a
20 logical, sound, practical, also legally compliant use of
21 these funds.

22 With all that said, the Board Chair of the TGA
23 is here. And he is available to answer questions about
24 the state of greyhound racing, what this kind of means to
25 the kennel owners and the dog owners.

1 I know the Commission has heard a lot of that
2 before at previous Commission meetings back both a year
3 ago and 2020 December, as well as some -- even as
4 recently, the Rules Committee members, Commissioner
5 McNabb, Kleinschmidt, Judge Pate, you were there in August
6 of this year.

7 We talked about a variation on this rule
8 proposal at that August meeting. We heard from some of
9 the TGA members at that time. And how important these
10 monies can be to participants in that greyhound industry.

11 So, he can speak to some of that.

12 But what I wanted to quickly discuss was the
13 AG's opinion itself. So, like I said, it came out in
14 September. The AG's opinion concludes that the
15 Commission's current rule is a problem for TGA's proposed
16 allocation.

17 Set aside the fact that I may disagree with the
18 AG's reading of the law, of the rule, even. It is what it
19 is. I certainly understand that the Commission is going
20 to respect the AG's opinion in this case, with respect to
21 the rule.

22 Specifically the opinion says, I just want to
23 quote it, to the extent that TGA proposes to pay funds
24 accrued from interstate cross species simulcasting to a
25 person other than a greyhound racetrack, a court would

1 likely conclude the proposal is contrary to the rule and
2 impermissible. So again, a court would likely conclude
3 that TGA's desire to pay out to kennel owners and dog
4 owners from the February 2020 meet is "contrary to the
5 rule and impermissible."

6 So the solution is an amendment to the rule.
7 The AG's opinion does not speak to TGA's suggested rule
8 amendment. It wasn't before the AG's opinion committee,
9 which makes no sense for them to comment on it.

10 But TGA's suggested rule amendment is
11 consistent with the statute and with the AG's opinion.
12 Because in part, I just want to note that the AG's opinion
13 emphasizes that the Commission has broad rulemaking
14 authority to implement the statutory requirement. And the
15 statutory requirement is something that Virginia said.

16 It is that these are purse funds; that is in
17 the statute. Purse funds for use at racetracks in this
18 state. That is the key language -- purse funds for use at
19 racetracks in this state. That is what the statute
20 requires.

21 The rule, again, requires that these monies go
22 from TGA to the racetrack associations, the greyhound
23 racetrack associations. And the greyhound racetrack
24 associations typically would pay them out to future race
25 participants, winners as purses. Since there are no

1 future races occurring -- many have been cancelled
2 already.

3 2023 is upon us soon. We will see. But it is
4 not unreasonable to expect that that meet may not occur.
5 Those meets may not occur.

6 The rule requiring that it go -- that TGA pay
7 the funds to the greyhound racetrack associations doesn't
8 make any sense. Practically, it would be -- I hesitate to
9 use such a strong word, but ludicrous. For TGA to send
10 money to the racetrack associations that would then do
11 what? Have to hold it, because the money is statutorily
12 restricted to be purse funds.

13 It must be held in trust for the benefit of
14 kennel owners and greyhound owners. So it is not like the
15 greyhound racetrack associations could use it. TGA can't
16 use it, just holding it. Trying to get it into the hands
17 of the kennel owners and greyhound owners.

18 So that is what I mostly wanted to cover. I
19 will cover a couple of other points. With respect to
20 TGA's suggested rule change, what was submitted in May of
21 this year, in anticipation of the possibility that the
22 AG's opinion might say the rule is a problem, in order to
23 kind of get ahead of that, although unfortunately we are
24 actually not ahead of it.

25 We are still, like I said, years down the road.

1 In this case, months down the road, after the AG's
2 opinion. But what was submitted in May was that the
3 TGA -- was a proposal that would give the Commission the
4 flexibility. Not require the Commission, but give you
5 guys the power, the authority, if you want to approve an
6 allocation from TGA directly to kennel owners and dog
7 owners. Mainly kennel owners and dog owners of Texas bred
8 dogs that had participated in that February 2020 meet.

9 So in August, right before the Rule Committee
10 talked about this proposal, the National Greyhound
11 Association -- a separate entity from TGA. But obviously,
12 from your name, you can tell I have an interest in a
13 national stake in greyhound racing across the country.

14 They submitted a comment that indicated their
15 displeasure with respect to the limitation on the rule
16 being -- on the TGA's proposal being allocating the funds
17 to owners of Texas bred greyhounds. And TGA's Board
18 considered that and decided that in response to that, they
19 would broaden the rule proposal to allow it to allow for
20 the distribution proposal to go to kennel owners and
21 greyhound owners of any dog that earned a purse in the
22 February 2020 meet, regardless of whether that dog was a
23 Texas bred greyhound or a non-Texas bred greyhound.

24 So it is slightly tweaked from May, again, to
25 address the only criticism that I have heard of, which

1 came from the NGA. As far as I know, there is no
2 domestic, no in state Texas criticism of TGA's allocation
3 proposal, of TGA's rule amendment suggestion.

4 As far as I know, the greyhound racetrack
5 associations are supportive. And there is no opposition
6 other than that NGA comment. Again, the TGA board has
7 tried to address that NGA comment. Whether or not they
8 fully have, I don't know.

9 And I will be fully candid, I have not seen
10 this latest email from the NGA that apparently came in
11 yesterday or this morning or something. So, that is the
12 gist of it. I am here to answer questions.

13 I do -- if you will allow me to make one last
14 point here. And forgive me, because I know you've heard
15 it before, but there is only two alternatives here.

16 The alternative is tweak the rule and possibly
17 move -- at least give yourselves the authority to hear
18 TGA's allocation proposal and hopefully get the money out
19 the door to these kennel owners and dog owners that need
20 it. That is option one.

21 Option two is require TGA to hold these funds
22 in escrow forever. I mean, basically forever. Now maybe,
23 god willing, there will be another greyhound race.

24 But if there is not, and that is not an
25 unlikely -- that is not an unrealistic assumption that

1 there won't be. Then TGA would have to hold these funds
2 forever under the current law structure, and that doesn't
3 make any sense.

4 TGA is a non-profit composed of voluntary
5 people associated with the greyhound industry. And they
6 can't exist forever. I mean, it is just not a workable
7 solution.

8 So, it is alternative one, rule change.
9 Alternative two, not work --

10 CHAIRMAN PATE: One of the reasons why we
11 listed this as a non-voting item is it allows us, instead
12 of just having you come for public comment, it allows the
13 Commissioners to ask questions to you. And it allows us
14 to discuss it with you slightly.

15 So you know, I would suggest to you, there are
16 other alternatives. And I think the Legislature is going
17 to be looking at these statutes. And there may be a
18 legislative fix, that in the Legislature's judgment of
19 where this money should go.

20 Because the problem we have -- the problem that
21 I think we have identified is that this is continuing
22 right now. And it is just -- we are going to keep having
23 money come in to this fund from horseracing. And there is
24 no relief provided that was intended under the statute for
25 the greyhounds, because there is no greyhound racing.

1 So I would suggest to you that this is
2 something that you and yours ought to take up with the
3 appropriate legislative people and address this. Because
4 it is an issue we have identified as one that requires
5 some legislative attention.

6 I mean, we don't have a judgment. It is not
7 our money. But I mean, we don't have a judgement on where
8 it ought to go. But we do think something needs to change
9 here because there is no dog racing.

10 MR. VICKERS: Well, yes. Judge Pate, I
11 appreciate that. But the problem -- the reason I think
12 there is only two alternatives, just to push back a little
13 bit, is that the legislative alternative is completely
14 outside the control of anyone here.

15 And this Commission, the buck has to stop here.
16 Because we have to, you guys really have to operate under
17 the statute that is given to you.

18 CHAIRMAN PATE: Yeah, we do.

19 MR. VICKERS: And we could hope for
20 different --

21 CHAIRMAN PATE: Excuse me. I mean, that is
22 what we are doing. That is why we went and got the
23 Attorney General's opinion, okay. And that is exactly
24 what we are doing.

25 But I think that this should be looked at by

1 the Legislature. I assume they will. Because one of the
2 things that we are doing, as I am sure you are aware --
3 there has been a lot of discussion on it.

4 We are seeking to have different sources of
5 funding, a different -- treating this agency as a General
6 Revenue type supported agency. All of that is under
7 examination or will be under examination by the Texas
8 Legislature this next session.

9 And this is -- I mean, this is just some money
10 that comes through our hands that has become for lack of a
11 better word, kind of obsolete as to its intended purpose.

12 So I don't know where it will end up. I am not making a
13 proposal of where it should end up. All I am observing is
14 that we have identified this as an issue that the
15 Legislature needs to look at in the context of what the
16 Agency is doing.

17 Am I correct there, Amy?

18 MS. COOK: Yes.

19 CHAIRMAN PATE: Okay. Commissioner
20 Kleinschmidt.

21 COMMISSIONER KLEINSCHMIDT: I don't know. It
22 seems to me like there are actually other alternatives. I
23 mean, TGA is not stuck with these funds forever. TGA
24 could interplead these funds into a court and let a court
25 decide where these funds go. One more option, okay.

1 We don't know what the Legislature might would
2 do with this. I mean, this essentially appears to me to
3 have been a tax on the horseracing industry that was used
4 to boost the economy of the greyhound racing industry.
5 And there is an impossibility of the purpose, it seems at
6 this point in time.

7 For all we know, the Legislature could say,
8 send this money back to the horse industry. I mean, the
9 impossibility of the goal is there. You know, sure, but I
10 don't see that you are stuck with the funds forever.

11 Because you can always interplead them and say,
12 hey, they are not ours. We don't know who they go to.
13 And then you turn the problem over to a Texas district
14 court to decide.

15 So, I mean, that is one more possibility, I
16 would think.

17 MR. VICKERS: Commissioner, I think that, you
18 know, I'm hesitant obviously to speculate on what a court
19 would do, for so many reasons -- as well as hesitate to
20 speculate on what the TGA would to the extent that years
21 go by and the TGA needs to disband.

22 And you know, it is not the membership. There
23 is not the Board. Because again, it is a voluntary
24 association. So at that time, maybe to wrap up is an
25 interpleader action, file these with the registry of the

1 court.

2 But we are still going to be in a situation
3 where if the rule -- Commission rule on the book says
4 these funds need to be paid to the greyhound association,
5 so then they can go to the kennel owners and the greyhound
6 owners, the court is going to go, okay. Well, the same
7 deal.

8 COMMISSIONER KLEINSCHMIDT: I can tell you, I
9 am somewhat hesitant to change rules retroactively, change
10 the recipient of monies. I mean --

11 CHAIRMAN PATE: And in this -- go ahead. I am
12 sorry.

13 COMMISSIONER MACH: I mean, are there breeders
14 that didn't participate in February of '20 who
15 participated in earlier races who would say, hey. I
16 wasn't there in February of '20. Why am I not able to
17 be --

18 MR. VICKERS: Well, as a practical matter, I am
19 sure there are, because of the long history of greyhound
20 racing. I have not -- we, to my knowledge, TGA -- I know
21 this Commission has heard from many of those folks.

22 And this has been discussed for, like I said,
23 two years. And so, to the extent there is a challenge
24 there, I doubt it. Also, you know, as a policy matter,
25 and as a conceptual matter, these funds have always

1 accrued over time and gone to participants in races.

2 In the past, it has always been done by
3 allocating what had accrued in some period to the future
4 races. And what we are saying is, well, the statute
5 requires -- I mean, we fully concede the statute requires
6 that it be for use at racetracks in this state.

7 So, you know, again, the only mechanism that we
8 know is to look -- because there is no ongoing racing, no
9 future racing -- is to look at the racetrack in the state
10 that had a race most recently: February 2020. As a
11 practical matter, we couldn't go back for all the
12 greyhound races that ever -- and try to include everybody.

13 And it also wouldn't be consistent with the way these
14 pooled funds have been used in the past. It is not like
15 they always go to everybody who has ever had a greyhound
16 at all.

17 CHAIRMAN PATE: Mr. Vickers, I mean, we are not
18 going to be moving this to a vote. It is not a voting
19 item.

20 Commissioner McNabb's committee evaluates the
21 rule. I mean, they will look at this rule with the
22 others. Our intent on all that rule is except in an
23 exceptional case -- which is what Commissioner McNabb
24 referred to earlier. We are not doing interim rulemaking.

25 So even if we were inclined to consider what

1 you are doing. It is just -- it is kind of out of the
2 regular order that we are trying to adopt with respect to
3 all of our rules. And on top of that, we have the OAG
4 opinion. And on top of that, we have no dog racing.

5 I mean, so there are a number of things
6 involved here. So, you know, we allocated you ten
7 minutes. We have given you about 25 minutes. I mean, I
8 think you have had a fair discussion.

9 Is there anything else you would like to tell
10 us, that you haven't expressed?

11 COMMISSIONER McNABB: One more question.

12 CHAIRMAN PATE: I am sorry, Commissioner. Go
13 ahead.

14 COMMISSIONER McNABB: Is TGA likely to dissolve
15 as an entity in the foreseeable future?

16 MR. VICKERS: In the foreseeable future, not to
17 my knowledge. At some time, yes. I imagine so.
18 Certainly if greyhound racing does not ever --

19 COMMISSIONER McNABB: Is there a cost to
20 maintaining this escrow account?

21 MR. VICKERS: Yes. I don't know exactly what
22 it is. There is a cost.

23 Though as Virginia referenced, the statute does
24 allow TGA to administer the account and the distributions
25 from those monies.

1 COMMISSIONER McNABB: All right. Thank you.

2 CHAIRMAN PATE: All right. Anything further?
3 Does somebody else want to speak to us?

4 MR. VICKERS: Yes, there's, like I said, the
5 President of TGA.

6 CHAIRMAN PATE: All right.

7 Come on up, sir. We are just going to give you
8 a few minutes, since your attorney has --

9 MR. GALBREATH: Good afternoon, and thank you.

10 CHAIRMAN PATE: Yes, sir.

11 MR. GALBREATH: I would like to just bring a
12 little humanity to the breeders. We have talked about the
13 money, and where it goes -- who gets it, who doesn't. But
14 I would like to talk about -- these need to be distributed
15 to people that planned.

16 You know, you don't just get a greyhound and go
17 racing. It is a couple of year planning from when they
18 are conceived to when they are ready to race. So people
19 had planned, and they expected and they depended on the
20 2021 and the 2022 meets to be run.

21 And they planned accordingly. They invested
22 substantial sums of money to make that happen. And like I
23 said, the racing commission and the tracks depended on us,
24 the Texas Greyhound Association, to furnish that dog so
25 they could run their product.

1 So several of the questions were asked earlier,
2 about the people that get money and maybe they didn't run
3 there. In greyhound racing, you kind of tailor your
4 breeding to a meet or to a track or to a kennel.

5 Greyhound racing has kennels at our tracks.
6 Yes, there is other tracks. But those other kennel owners
7 there have existing breeders that they work with and that
8 have planned to produce their product.

9 And so, here we were, the people who had
10 planned everything to race the 2021 and 2022 meets here in
11 Texas when that was just cancelled. I mean, it was no
12 forewarning. We couldn't plan for it.

13 In other states, Arkansas, West Virginia, Iowa,
14 whenever they ceased some racing -- and Florida, there was
15 like a two- or three-year period where the breeders knew
16 what was going to happen. And you could create your
17 contacts at other tracks, with other kennels, and create
18 those business opportunities there for you.

19 We didn't have that, that opportunity.
20 Arkansas knew for about two or three years. They are
21 ending at the end of this month forever. There is two
22 West Virginia tracks that are still running.

23 Iowa closed one track. And when they closed
24 that track -- they had two. They closed one. They put
25 money aside. And they had a five-year payout to the

1 people who only ran at that track who depended on that
2 track.

3 Because they understand that there are certain
4 people that were dependent on it. Not everybody is
5 dependent on it, but certain people. So they had a
6 five-year payout to ease people's transition into other
7 areas that they can do.

8 And then, the other Iowa track closed five
9 years after that. So, they had a five-year warning.
10 Everybody has had a warning except for the TGA. And you
11 know, we were just one day, we had a phone call, and said,
12 they are not going to race anymore. Okay.

13 So whenever we called the other tracks and say,
14 can we race there, we don't have room. Because there is
15 very few tracks running. You had the Arkansas track
16 running, two West Virginias, and one Iowa track that would
17 open up, like ten months later.

18 And so, you kind of tailor your stuff to that.

19 So man, we were just, you know, a ladder was just kicked
20 out from us and we just had a long fall. And we have had
21 no recourse and no landing spot. Nobody created a landing
22 spot.

23 So, this money that is in our account has been
24 there and has been accumulated in a period when we would
25 have expected to run for it, between 2021 and 2022 meet.

1 That is what we had planned for. All the greyhounds that
2 we had on the ground are bred and ready to go.

3 And I realize there needs to be, and that there
4 will be an end to the money that is coming from the horse
5 tracks. But the money that had -- that is in there now,
6 we had expectation to run for and to earn. And, you know,
7 we are not talking about the future.

8 So that is what we are asking for is some help
9 to transition to be compensated and made whole for the
10 harm that was done by the end of greyhound racing. And we
11 would just ask that we could be -- that whoever makes the
12 discussions with the Legislature or however you address
13 this, that you keep the people that was harmed, keep them
14 in the minds and try to come up with a solution to ease
15 these people.

16 Because they had tremendous amounts of money.
17 And people had to just take their greyhounds, when they
18 called other tracks, and they couldn't get them there to
19 race -- they had to give them away for adoption. So they
20 have spent a lot of money on a very fine pet for somebody.

21 So that is what I was -- just keep us in mind.

22 CHAIRMAN PATE: Sir, I have a question. When
23 was the last -- what year was the last greyhound race run
24 in Texas?

25 MR. GALBREATH: 2020.

1 CHAIRMAN PATE: 2020. So it has been over two
2 years.

3 MR. GALBREATH: Yes, sir. So you would have
4 bred greyhounds during that meet or a little bit before
5 that for the 2021, 2022 meet because it is two --

6 CHAIRMAN PATE: I mean, I understand your
7 concerns, I mean. And just for the record, I know of
8 nothing that the Texas Racing Commission did to shut down
9 dog racing. That is an economic decision by the dog
10 racing tracks themselves.

11 It is not anything this Commission did, or any
12 ruling of ours, that caused that. And it is mainly the
13 public perception. I am sure there is PETA.

14 There is all kind of issues out there -- people
15 diddling with dog racing. So it is not something that
16 this Commission did. So I think those arguments -- and I
17 understand them. I think those are the arguments that Mr.
18 Vickers should articulate to the Legislature.

19 I mean, you all need to talk to them because
20 this should be considered. Amy can certainly let him know
21 when something comes along. I mean, that he might, there
22 is somebody he might want to talk to, and that kind of
23 thing.

24 But we are not writing the statute. But we are
25 going to identify issues and if the Legislature wants to

1 change it in a different way, they will. If they don't,
2 they won't. If they want to allocate this money
3 differently, they will.

4 But right now, we are not going to change the
5 rule. That is not what we are doing.

6 MR. GALBREATH: I understand.

7 CHAIRMAN PATE: And that is kind of where we
8 are. I think we really need to get -- and as Commissioner
9 Mach mentioned to me, just a second ago, it would be very
10 difficult for us to change a rule in the next three or
11 four months anyway. I mean, we have got other things,
12 other priorities that we are working on.

13 So I really think you just need to --
14 Commissioner McNabb has your rule proposal. The rules
15 review is undergoing. The Legislature is coming up. And
16 we are going to really come up for air after about May of
17 2023 because we have so much other work to do in the
18 Legislature.

19 MR. GALBREATH: And I would just like to make
20 one comment towards your saying that this Commission
21 didn't have anything to do with that. And I agree with
22 you on that. I think, if we had this Commission, and we
23 had this Executive Director, we would have greyhound
24 racing. That is my opinion.

25 So I appreciate what you all have done. And

1 what you all have done. But I think the damage was done
2 before you all were here -- before Amy was here.

3 MS. COOK: I just want to respond to that, that
4 greyhound regulation is still in our statute. And to the
5 extent that, you know, Virginia and I other staff members
6 can sit down with you and Kevin and continue to have this
7 conversation and support you, we will do that.

8 Independent of, you know, your request for rule
9 change. It is important to me that we keep the lines of
10 communication open, and we support you in the best way we
11 can.

12 MR. GALBREATH: Thank you, Amy.

13 And like I said, I would just like to thank you
14 all. And you all have a terrific Executive Director with
15 Amy.

16 CHAIRMAN PATE: All right. Thank you very
17 much.

18 MR. GALBREATH: Thank you.

19 CHAIRMAN PATE: All right. We are coming up on
20 Item 9, Executive Session.

21 Ladies and gentlemen of the Commission, we do
22 have an important employment matter to be discussed in the
23 Executive Session. So accordingly, the Commission will
24 now move into Executive Session to discuss an employment
25 matter, pursuant to Texas Government Code Section

1 551.074(a)(1).

2 The time is now 12:33. This will be very
3 brief, but we'll go into Executive Session.

4 (Whereupon, the Board recessed into Executive
5 Session.)

6 CHAIRMAN PATE: The Commission is now
7 reconvening after concluding its Executive Session under
8 Government Code Section 551.074(a)(1). The time is now
9 12:44 p.m. We have made no decisions while in Executive
10 Session and took no action.

11 The next meeting is scheduled for Wednesday
12 February 15, 2023, at 10:30 a.m. The meeting is to be
13 held at the Department of Public Safety offices, located
14 at 6100 Guadalupe, Building E, in the Criminal Law
15 Enforcement Auditorium in Austin.

16 We appreciate Commissioner Mach assisting us
17 with meeting space during the upcoming legislative
18 session, so thank you very much.

19 The time is now 12:45 p.m., and with all
20 business concluded, we are now adjourned. Thank you.

21 (Whereupon, at 12:45 p.m., the meeting was
22 concluded.)

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C E R T I F I C A T E

MEETING OF: Texas Racing Commission

LOCATION: Austin, Texas

DATE: December 14, 2022

I do hereby certify that the foregoing pages, numbers 1 through 86, 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: December 27, 2022

(Transcriber)

On the Record Reporting
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