

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
TEXAS LOTTERY COMMISSION
AUSTIN, TEXAS
BINGO ADVISORY COMMITTEE MEETING

SEPTEMBER 22, 2020

10:00 a.m.

AT

TEXAS LOTTERY COMMISSION
611 East 6th Street
Austin, Texas 78701

Proceedings reported by electronic sound recording;
transcript prepared by Verbatim Reporting & Transcription
LLC.

APPEARANCES

COMMITTEE MEMBERS:

William T. Smith III

Will Martin

Tommy Duncan

Jason Pohl

Melodye Green

Veronica Uriegas

Emile Bourgoyne

Kim Rogers

COMMISSION STAFF:

Tyler Vance, Staff attorney

Bob Biard, General Counsel

Tom Hanson, Director Charitable Bingo Operations Division

PUBLIC:

Stephen Fenoglio

Kim Kiplin

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

TABLE OF CONTENTS

3

PAGE

1.	Call to order	4
2.	Roll call	4
3.	Meeting minutes from March 4, 2020.	5
	a) Public comment	
	b) Approval	
4.	Report on Texas Lottery Commission meeting. . .	8
5.	Discussion and possible action on rules up for review and change	6, 10
	a) Public comment	
	b) Approval	
6.	Discussion and possible recommendations on BAC nominations	34
7.	Old business	38
	a) Public comment	
	b) Action	
8.	New business.	38
	a) Public comment	
	b) Action	
9.	Set date for next meeting	48
10.	Adjourn	58

P R O C E E D I N G S

TUESDAY, SEPTEMBER 22, 2020 (10:00 a.m.)

AGENDA ITEM 1

MS. ROGERS: Good morning, everyone. It is 10:12 and we will call this meeting to order via Zoom. And I am not very tech savvy, so I did have to have my daughter help me get all this set up.

AGENDA ITEM 2

MS. ROGERS: The first thing would be roll call and I can -- I know it gets difficult; numerous people talking at once. It's all in print. Will Martin is here. Jason Pohl, Tommy, Emile. Those are the BAC members, I believe, that I can see.

UNIDENTIFIED VOICE: I am here as well.

MS. KIPLIN: Ms. Rogers, Kim Kiplin. I believe -- I believe that Melodye Green is also joining through 214 --

MS. ROGERS: Yeah.

MS. KIPLIN: Sorry to interrupt you.

MS. ROGERS: Not a problem whatsoever.

MR. VANCE: And, sorry -- this is Tyler Vance -- sorry to interrupt you too, but there's an attendee under the name of Jose Uriegas that very well may be Veronica. Not sure.

MS. ROGERS: Veronica, is that you? Are you

1 here? Good morning, Veronica, are you with us? Okay. Well
2 we'll move on from there and it's -- if it is her maybe she
3 can join us.

4 AGENDA ITEMS 3

5 MS. ROGERS: Meeting minutes, item number 5,
6 meeting minutes from March 4th, 2020.

7 I was not in attendance at this meeting, but I
8 did go over the meeting minutes that are posted. I did not
9 have any problem with those. I did not see any issues with
10 those.

11 Within those minutes -- before we approve
12 those -- within those minutes, since I was not at the last
13 meeting, Trace had said that I would look back and review the
14 January meeting minutes. Once again I read those, I had no
15 problem with those.

16 So, first we'll be doing the meeting minutes
17 from the prior meeting. Do I have a motion to accept those
18 meeting minutes as they are posted?

19 MR. BOURGOYNE: I'll make it. This is Emile.

20 MS. ROGERS: Okay. Thank you, Emile.

21 MS. URIEGAS: Good morning. This is Veronica.
22 Can you hear me now?

23 MS. ROGERS: Yes, ma'am, Veronica, we can hear
24 you now.

25 MS. URIEGAS: Great, sorry. Thank you.

1 MS. ROGERS: Yes. I -- I'm guessing.

2 MR. MARTIN: This is Will. I second that
3 motion.

4 MS. ROGERS: Thank you, Will. Greatly
5 appreciated. Those meeting minutes are approved and accepted
6 as they're posted.

7 Now we'll vote on the March 4th meeting
8 minutes. Do I have a motion to accept those meetings as they
9 appear online?

10 MS. URIEGAS: This is Veronica --

11 MR. BOURGOYNE: I'll make a motion to --

12 MS. URIEGAS: Go ahead.

13 MS. ROGERS: I'll take it as Emile makes the
14 motion. Veronica seconds.

15 MS. URIEGAS: Perfect.

16 MS. ROGERS: We will accept those meeting
17 minutes as they appear online. You'll have to excuse me. It
18 takes me a minute because I'm doing the notes also for the 19
19 the meeting.

20 If we can, Item number 6 is a report on the
21 Texas Lottery Commission meeting. I think we'll save that
22 until we have Trace, because he would be the one to give
23 that.

24 AGENDA ITEM 7

25 MS. ROGERS: Let's move down to number seven,

7

1 Discussion and Possible Action on Rules up for Review and
2 Change. Chair of that group I believe is Melodye. Melodye,
3 is that correct?

4 MS. GREEN: Yes.

5 MS. ROGERS: Okay. If you would like to take
6 the microphone.

7 MR. DUNCAN: Kim, can I interrupt for just a
8 second? Trace said he's on. He needs somebody to unmute
9 him.

10 UNIDENTIFIED VOICE: Oh, good.

11 MS. ROGERS: Tom, you let me know. Or Tyler.
12 Do you want me to pause or wait?

13 MR. HANSON: You know, if you would pause for
14 just a second, Bill, it's the 903 number, if you can.

15 MR. SMITH: I -- can you hear me?

16 MR. HANSON: Yes, Trace, thank you very much.
17 I appreciate you getting in.

18 MR. SMITH: Good grief. Man, I'm going to
19 tell you what. I don't -- I hope you all know I'm a
20 technological idiot. I really am. But that was really
21 complicated to get in. I was clicking the link, and I
22 apologize for my tardiness.

23 Kim, are you sweating yet?

24 MS. ROGERS: Well, yes. I'm as tech savvy as
25 you. So, yes.

1 MR. SMITH: Okay. Well, I do apologize to
2 everybody. Kim, you're doing a fine job. You just want to
3 take it from here or you want me to step in?

4 MS. ROGERS: Oh. You absolutely take the
5 floor, sir.

6 AGENDA ITEM 4

7 MR. SMITH: Okay. Melodye, if you don't mind,
8 before we jump into your deal, if you want -- and I was
9 listening to you all -- the report on the Commissioners
10 meeting. If you all want me to go ahead I'll go ahead and
11 give that.

12 At the Commissioners meetings, the last one,
13 we talked -- I talked about the bingos opening and the slow
14 status and thousands of money to get back up to speed and
15 reopen all the refits that the bingo halls had to do and to
16 keep that in mind and that we will be talking about the rules
17 and the COVID stuff in our -- in our meeting today.

18 I told them that we'd be trying to get -- open
19 up the application process to get a new member. And one of
20 the things that I spoke about was that it was the first time
21 in history since bingo's inception in the state of Texas that
22 charitable bingo had been closed statewide. And to keep in
23 mind that that really, really, really is detrimental to the
24 charities in the state of Texas, because they weren't raising
25 any money during that time.

1 Charities spent a lot of money on
2 precautionary shields, dividers, refitting, sanitizing,
3 getting ready for stuff. And that they also spent a lot of
4 money on keeping their insurance and their electricity and
5 their rents up when they didn't have an income. And so, that
6 would probably result in a lot of waiver requests that I'm
7 sure Tom has really gotten a lot of. And thanks to their --
8 the operating staff and Tom Hanson to, you know, being really
9 receptive of that and understanding of the hardships the
10 charities are going through during this time. And I'm sure
11 that they are as well.

12 I know Tom's been operating from -- on a
13 skeleton staff and a lot of people have been working from
14 home, and we really appreciate their efforts and their
15 understanding in this difficult time. So, that's my report
16 on --

17 MR. HANSON: Thank you for that, Trace.

18 MR. SMITH: Yes, sir.

19 MR. HANSON: I wonder if you want to talk
20 about the renewal of the BAC and the annual plan.

21 MR. SMITH: Yes. That's right. Correct. We
22 did go through the -- we did get renewed. Obviously, I sent
23 out an email on that, that we did get renewed and we are able
24 to go for another year.

25 The Commission gave us an annual work plan,

1 and I do not have that in front of me right now. I can't get
2 to it because I'm on the meeting call. But we do have an
3 annual work plan that I've sent out. And there's a lot of
4 room in there to add extra things. So, we can add to the
5 actual work plan, but I'm sure everybody has it on their
6 email. But I would -- I would assume that we need to vote to
7 accept that. Is that correct, Tom? Or do we have to do
8 that?

9 MR. HANSON: Okay, so I'm not the one to ask
10 about that. Tyler, you want to weigh in?

11 MR. VANCE: My thought is it's not really
12 something that the BAC accepts or rejects. That's kind of
13 the direction the Commission has given them. And so, I think
14 it would be, you know, we could summarize what it is, but I
15 don't think it's something that the committee needs to take a
16 vote on.

17 MR. SMITH: Okay. All right.

18 MR. HANSON: Thank you.

19 MR. SMITH: Okay. Well, we will -- we'll
20 review that again and go back over that at another time. I
21 know we've got a lot going on today. It is what it is, so we
22 will -- we will follow that.

23 MR. HANSON: I appreciate that. If I may just
24 jump in real quick. Emile, can I get you to mute your mic?

25 MR. BOURGOYNE: Sure.

1 MR. HANSON: I'm checking for some echo we're
2 getting.

3 MR. SMITH: There we go.

4 MR. HANSON: Thanks.

5 AGENDA ITEM 7

6 MR. SMITH: All right. Yeah. At any rate,
7 that was my report to the TLC Commission. And I guess we'll
8 go on to number seven and let -- Melodye, I guess we'll let
9 you pick up where we left off. I know there is several
10 people that want to speak today on certain rules. I know Kim
11 Kiplin has asked to speak on some stuff. Steve Bresnen and
12 possibly Steve Fenoglio may want to speak on some stuff. So,
13 when we get to that, be sure that we have time for that.
14 But, Melodye, take it away.

15 MS. GREEN: Okay. Well, what we did -- so
16 glad we were able to get the rules review in before the COVID
17 hit. We spent the whole day going through the rules one by
18 one. Everybody had a, I think, Steve Fenoglio was there and
19 Kim Kiplin was there.

20 And some of the main changes were they're
21 going to allow temporaries on demand which was -- would be a
22 big asset to the charities. Especially now. Because we
23 don't know what's going to happen day to day. We might not
24 be open in two weeks. We don't know.

25 So, the only thing they need to do for that is

1 to put that form back online to where you could apply for the
2 temporaries on demand. We can get them, but we can't apply
3 for it yet. But Tom said he would -- he would handle that.
4 He was aware of it.

5 And, like you said, Trace, I think Kim had
6 some comments. I'm not sure if Steve does, but -- I'm sure
7 he does, on some of the rules where the -- about the work --
8 about the workers. What we have to do to get them
9 registered. And, Kim, would you like to speak, or are you --
10 I'm not sure how you want to handle this.

11 MS. KIPLIN: I'm happy to handle it any way
12 that you would like for me to. I'm happy to start commenting
13 now, or wait until you're through with your report.

14 MS. GREEN: Well, I -- it was a very long time
15 ago when they sent out the rules. I believe that, Tom, I
16 believe you tried to follow everything that we talked about.
17 I do -- I do -- one of the things that did change is we did
18 not get a reduction in the commercial lessor renewal fee and
19 I can understand that, because everybody right now is looking
20 for money. So, that was the only big gift that I don't
21 believe that we were able to obtain. Is that correct?

22 MR. HANSON: Tyler? That's my understanding.

23 MS. GREEN: Okay.

24 MR. VANCE: Well, with one small caveat is
25 that yesterday we received a comment relating to the

1 electronic gift cards and due to that comment we're going to
2 have to postpone that rule and come back and revisit it in
3 the future. We just don't have enough time at this point to
4 adequately address it or consider it or discuss it or really
5 do anything by next week. So, that rule is going to come
6 out. But we can certainly revisit it in the future.

7 MS. GREEN: Okay. Well, that's --

8 MR. SMITH: Well, if I may? If I may,
9 Melodye, if -- I think -- I think there was a call last week
10 talking about some of the rules and there were some comments
11 made about the rules and stuff from last week.

12 I think in general the consensus was -- and
13 this is what I'm reading on email and from word of mouth. I
14 think in general everybody was supportive of things except
15 for a couple rules.

16 I think 402.702, 402.700, and 402.750 I think
17 there was some suggestions or comments from the industry that
18 may -- that we're probably going to get into here in just a
19 moment. But I think in general everybody kind of went along
20 with the rule review.

21 MS. GREEN: Yes. That's what I heard, too.
22 What -- Tyler, what were the comments -- can you explain the
23 problem with the gift cards or who made the comment? Or --

24 MR. VANCE: Sure. So, we received a comment
25 from the Kickapoo Tribe of Texas that was concerned about the

1 application of electronic gift cards, that it could possibly
2 result in the use of issuing credits on an electronic device
3 similar to a slot machine. And so, they recommended that we
4 omit that rule.

5 And I think we internally discussed it and
6 acknowledged the potential of the issues. It's not what we
7 intended, obviously, but we're going to take some time and
8 involve industry and BAC and just have some internal
9 discussions about how we're going to go forward with it; if
10 we're going to go forward with it.

11 MR. SMITH: Tyler, if I may, do the Kickapoos
12 hold a bingo license in the state of Texas?

13 MR. VANCE: No. The Kickapoos are on an
14 Indian reservation and they hold a -- they're exempt
15 federally and so, they operate, Bob, correct me if I'm wrong,
16 it's the highest class of gambling license. So, they are the
17 only ones in Texas that they're allowed to have slot machines
18 and table games and bingo. They have a full unrestricted
19 license for gambling.

20 MR. SMITH: Okay. So, do they -- do you know
21 if they do any lottery -- Texas Lottery sales on their
22 reservation?

23 MR. VANCE: I do not.

24 MR. BIARD: They don't. No, they don't.

25 MR. SMITH: Okay. All right.

1 MR. BIARD: They're a long time frequent
2 commenter on our rules. They track Lottery and Bingo rules
3 and they're very, very attentive. This is Bob Biard for the
4 record.

5 MR. SMITH: Right.

6 MR. BIARD: They're very attentive about
7 anything that could be even remotely conceived as the tiniest
8 crack in the door that would allow for anything that even
9 vaguely resembles a slot machine.

10 MR. SMITH: Got you. So, my -- I guess my
11 next -- my follow-up question to that -- and this is the
12 first I've heard of that, so I'm inquisitive -- is the gift
13 card rule review, is that something that the industry in
14 Texas has been pushing or is in favor of?

15 Mr. VANCE: Yes. That came out of the -- a
16 Bingo Advisory Committee Meeting in March. I think it was
17 raised very briefly in January, but in March --

18 MR. SMITH: Right.

19 MR. VANCE: -- with -- I think one of --
20 either Emile or Tommy brought it up and then -- and then Will
21 gave it quite a bit more support. And so, I think everyone
22 was on board with it.

23 MR. SMITH: Right. Okay. Just making sure
24 that I was understanding that correctly.

25 MS. GREEN: How long will it be before we look

1 at that again?

2 MR. VANCE: Well, I would think your next
3 regular scheduled BAC meeting. We can address it there and
4 then make a recommendation for the Commission. It's -- the
5 rule as proposed is good for six months. It can be adopted
6 up to six months. And so, if it takes longer than that,
7 we'll have to re-propose it which adds some time.

8 But I, you know, I would think that we can
9 look at in the next coming months. Whenever the next BAC
10 meeting is, get you all's feedback. We need to discuss with
11 the Kickapoo folks, you know, what they think about our
12 possible revisions to the rule and then we'd have to present
13 it to the Commission.

14 MR. SMITH: Well, let me just extend an
15 invitation. And I'm sure that everybody would like to
16 revisit this at the next BAC meeting at this point. And
17 please let us extend our invitation for them to be at the
18 next BAC meeting if they'd like to. If it works out that
19 way. You know. Anyone's welcome to visit the BAC meetings
20 and give their comments and work through the BAC.

21 MR. DUNCAN: This is Tommy. My problem with
22 that is they got slot machines and table games and bingo and
23 they're worried about an electronic gift card?

24 MR. BIARD: Yes.

25 MS. URIEGAS: Okay. Hi. This is Veronica. I

1 have a question.

2 MR. SMITH: Sure.

3 MS. URIEGAS: Where does that -- so, the
4 sweepstakes machines are getting really huge here in Austin.
5 They're stand-alone game rooms that hold sweepstakes. And
6 those they are put on a card as well. Who regulates that?
7 Do we know?

8 MR. VANCE: Those are currently regulated by
9 the local municipality. So, whether a machine is a
10 sweepstakes machine or a gambling machine, is up to be
11 determined by local law enforcement. And then if it is a --
12 an allowable sweepstakes machine, the city then regulates
13 that.

14 MS. URIEGAS: Okay. Thank you.

15 MR. SMITH: All right. Melodye, back to you.
16 You want to go back down the line again? Or are you -- where
17 are you at?

18 MS. GREEN: Yeah. Well, I'm a little stunned.
19 When did the Kickapoo kick in? When did they --

20 MR. VANCE: We got it yesterday after -- their
21 comment was made yesterday afternoon.

22 MS. GREEN: That's convenient.

23 MR. BIARD: Like a good lawyer they filed at
24 the very last second.

25 MS. GREEN: Well, you know, it is frustrating

1 to have -- because the people that seem to be against us are
2 anybody that we might compete with. And bingo has no
3 competition at all with the casinos. We're living proof of
4 that in Dallas.

5 But, anyway, I just find that a little
6 frustrating. So, those were the -- Kim and I were speaking
7 yesterday. Those were the two main things that we really
8 were able to push forward temporaries on demand and
9 electronic gift cards for the future. So, anyway, the rest
10 of the rules I don't think anybody had a big problem with
11 anything else.

12 MR. SMITH: Yeah. I think, Mel, if I may, I
13 think -- I think -- I think Kim Kiplin wanted to speak on
14 402.702, I believe.

15 MS. GREEN: Yes. Yes. Yes, those -- right.

16 MS. ROGERS: May I say something before we
17 leave this issue? This is Kim Rogers.

18 MR. SMITH: Sure.

19 MS. ROGERS: Tyler, or Tom, I guess this will
20 be addressed more to you. If a Jane Susie would have made
21 the same comment that the Kickapoo made yesterday before
22 closing, would it be slowing this down? Yes or no?

23 MR. VANCE: Yeah. I think -- I think so.
24 Because it's -- the fact that it came at the last minute, it
25 does present reasonable issues that we need to be concerned

1 about. And because it's at the last minute and because the
2 Commission meeting's next week we just -- we don't have
3 enough time to turn this thing around. So, I think it's --
4 the prudent thing to do is to hold off for a little bit, no
5 matter who sent this in.

6 MS. ROGERS: Okay. That was my question.
7 Because I don't see that they would hold more clout, per se,
8 than a typical person. Very good. Thank you.

9 MR. DUNCAN: I don't know about that.

10 MS. GREEN: Okay. Yes. Let's let Kim speak
11 on her -- the issues that she raised about 407.

12 MS. KIPLIN: Thank you.

13 MS. GREEN: Kim, you want to go ahead?

14 MS. KIPLIN: Thank you, Melodye. Yeah. This
15 is Kim Kiplin, for the record, and I'm -- I really appreciate
16 the opportunity to comment before the Bingo Advisory
17 Committee on this issue. And I'm representing the Texas
18 Department, Veterans of Foreign Wars regarding this comment.

19 And, first of all, I want to say I think the
20 process since -- I want to go back to January, has been very
21 refreshing in terms of going through this rule review and
22 having the meetings and, you know, the civil conversations
23 about it and the receptivity by the staff. And Tom and
24 Tyler, I really want to tell you how much I appreciate that.

25 Because a lot of the -- in my view, a lot of

1 the suggestions that were made by the industry and the Bingo
2 Advisory Committee have been incorporated into these proposed
3 amendments. Thank you for that. On behalf of the VFW, thank
4 you for that.

5 The -- and we do support the proposed
6 amendments with the exception of the inclusion under 402.702
7 as a disqualifying conviction; the wholesale list of Chapter
8 22 of the penal code assaultive offenses.

9 And this really is very important issue to VFW
10 and has to do with the veterans, men and women who are
11 returning trying to find jobs, and I think we recognize the
12 unemployment rate for veterans is pretty high. And they may
13 be suffering from PTSD or some other -- some other impairment
14 and might just, you know, get into a bar fight or some kind
15 of fight.

16 We don't want them disqualified from being
17 able to work in a VFW post. We think that that's a good
18 community for that particular veteran to be in a post and be
19 working at creating value for themselves, their family, their
20 peers. So, we're opposed to it for that main -- that primary
21 reason.

22 And when we discussed this item -- and I
23 really appreciate, Tom Hanson, you, having the meeting with
24 us on, I believe it was the last week, last Tuesday. And the
25 participants of that meeting were the Texas Lottery staff,

1 and there was Tom Stewart, Steve Bresnen, Steve Fenoglio, and
2 myself.

3 I won't speak for the others, and they can --
4 they can chime in today in terms of their support on the
5 VFW's position. But it's important to the industry in the
6 sense that we don't necessarily want people disqualified for
7 an assault offense.

8 And I thought Steve Bresnen raised a really
9 good point and I -- it probably should have occurred to me,
10 but at the time it didn't. And that is that you look at the
11 mission and the responsibility, the enabling statute for the
12 Bingo Enabling Act in terms of the Commission's regulatory
13 responsibilities. And it really is to regulate to make sure
14 that bingo is conducted fairly and that the net proceeds are
15 distributed the way they should be.

16 But I don't see how assault factors in on
17 that. I can see theft for sure and other, you know, forgery
18 and things like that, but not assault. And I
19 -- and please understand, I'm not -- I'm not saying one way
20 or the other whether an employer would want to hire somebody
21 whose got an assault offense, but I do agree with Mr.
22 Bresnen, I don't think it's the agency's regulatory
23 responsibility to do so. An employer can conduct a
24 background and make their own decision. I just don't want to
25 see this become part of the regulation.

1 The other item that we discussed, and this is
2 really kind of -- kind of the main reason I got so concerned,
3 one, the VFW with the veterans. But the process right now is
4 that if you fit -- if you are on the -- on the registry or
5 applying to be on the registry and you -- and the -- your
6 criminal history background check pops up a disqualifying
7 conviction, that immediately begins a two-pronged path.

8 The Commission is going to initiate, in my
9 view, an enforcement proceeding and you get an opportunity to
10 provide mitigating factors. For example, veteran's status,
11 how long it's been, the age you were at the time of the
12 offense. But you're going to go down one of two paths.
13 They're either going to take you to hearing and remove you,
14 or not put you on the registry, or you'll be required to
15 enter into an agreed order that has restrictions.

16 And I represented some time ago a couple of
17 brothers that got into a fight. I think they were -- my
18 client was 26. His older brother was 28. And his older
19 brother actually wrote a letter of reference, but it -- but
20 required my client to be on an agreed order for three years.
21 Three years could not be anything other than a bingo worker.
22 Could not advance no matter if the employer wanted that
23 person to advance. Could not.

24 Now in the conversation that we had last week,
25 and Tyler, Tom Hanson, I don't want to speak for you too

1 much, but I think there was a general consensus on you all's
2 part that you would look at that differently in terms of the
3 agreed order. You know, maybe less of restrictions, if it's
4 a misdemeanor versus a felony.

5 But the fact is you're still going to be under
6 an agreed order. And I just don't think in the large part
7 that's fair. It may be -- it really -- to me it comes down
8 to that individual's situation. I really don't want the --
9 people with assault convictions -- and that could be a
10 deferred, by the way. But under this particular provision of
11 the rule, deferreds are treated -- can be treated as if
12 they're convictions.

13 So, for that reason, we are -- we are opposed
14 and we do not support including a wholesale in its entirety
15 Chapter 22 Penal Code assaultive offenses in the -- in the
16 disqualifying conviction rule 402.702.

17 I'm happy to answer any questions that anybody
18 has. Appreciate you letting me put the comment on.

19 MR. SMITH: Absolutely, Kim. No problem.
20 Does anybody else want to speak on this?

21 MR. MARTIN: Yes. I do. This is Will Martin
22 here. Will Martin. And I can, as a Post Commander for the
23 American Legion, and as a member of the Executive Board for
24 Disabled American Veterans, and an officer for the Vietnam
25 Veterans of America, I can tell you that we are definitely

1 against this proposed amendment.

2 There's a very high percentage of veterans
3 with PTSD that have an assault conviction and if you look at
4 that percentage you'll find that most of them go on to become
5 productive citizens of our society. And a lot of them,
6 including myself, are granted a license to carry a firearm in
7 the state of Texas. And I can't see where a Department of
8 Public Safety would say you can carry a firearm but the Texas
9 Lottery Commission says, you can't work at bingo. That's --
10 doesn't make any sense to me. I'm through.

11 MR. SMITH: All right. Thank you, Will.
12 Thank you, Will.

13 This is Trace. Just to give a couple comments
14 on this. And I'm speaking personally on this. I am
15 definitely against the assault being a disqualifying issue.
16 Whether it's for a veteran or for a regular person off the
17 street. That really to me does not relate to the conduct of
18 bingo.

19 You can have somebody that has, you know, like
20 Kim said, been in a bar fight or just been in a fight
21 defending someone, and if they don't have the proper -- they
22 don't have enough financial means to defend themselves, they
23 can take a plea deal and get a deferred or get a conviction
24 and then they're disqualified from working.

25 And they may be a great worker, they may be a

1 not so great worker. But I think it's hard enough -- as
2 bingo employers and charities that are employing people to
3 work -- it's hard enough to be able to hire people that we
4 think are good people. So, I'm definitely against this
5 proposed rule as it stands with the disqualifying convictions
6 of assault.

7 MS. ROGERS: I'd like to make a comment. This
8 is Kim Rogers. Trace, if you're finished.

9 MR. SMITH: Yes.

10 MS. ROGERS: Okay. I hear you all talking and
11 I completely agree -- Trace, Will, and Kim -- with all three
12 of you. I actually had this happen. Almost 20 years ago one
13 of the best employees that I had ever hired had a bar fight
14 when he was 17. Long story short, Lottery Commission calls
15 me, I have to let him go. Once it fell off his record, he
16 came back to work for us.

17 And absolutely fabulous employee once again.
18 Never had a problem with him in a day. But because of a bar
19 fight. Has nothing to do with Bingo. Nothing to do with
20 handling cash. Nothing to do with stealing. Anything of
21 that nature. So, I just wanted to let you all know it
22 actually does happen.

23 MR. SMITH: Thank you.

24 MS. GREEN: Trace, this is -- this is Melodye.
25 Can I make a comment, too?

1 MR. SMITH: Absolutely.

2 MS. GREEN: Yeah. I agree with Kim. Not only
3 about the assault charge being nothing to do with bingo, but
4 also with the fact that we as employers, we should be able to
5 hire people we want to hire. I agree with you, we don't want
6 to hire somebody that's been, you know, with theft or, you
7 know, other really violent felonies. But if somebody has an
8 assault charge way back when, we should be able to decide if
9 we want to hire them or not. Not the Lottery Commission.

10 I know we have a great Commission we're
11 working with right now. But, you know, we've been through
12 other ones that were very hard to deal with. So, the fact
13 that we have some control over who we hire, that would be a
14 big asset to us. Because we know who -- we know these people
15 and they do not. So, anyways, I agree with you. That's just
16 my comment.

17 MR. SMITH: Thank you, Melodye. All right.

18 MR. POHL: I'll comment, Trace.

19 MR. SMITH: Okay. Go ahead.

20 MR. POHL: I do also agree with you all in
21 regards to the assaults as well. So, I don't think it should
22 be a disqualifying factor. This is Jason Pohl, by the way.

23 MR. SMITH: Thank you, Jason, appreciate it.
24 Glad you made it. All right. Anybody else want to comment
25 on 702? All right. Let's move on.

1 402.700, Steve Fenoglio, Steve Bresnen, do you
2 all want to comment on that? Are you all on the call? Nope.
3 I think there was some -- there's -- I think there was some
4 things that were submitted to staff on 402.700 and 402.450.

5 MR. VANCE: Yeah, Trace, this is Tyler. I'll
6 chime in on -- summarize what Mr. Bresnen had said. So, in
7 regard to 700: 700 is covering the process for temporary
8 suspensions which, you know, the BEA requires us to have a
9 process and we've never had a process and so, we've never
10 used it, because we don't have a process.

11 Well, now it's going to provide for a
12 temporary suspension in certain situations. And, you know,
13 so, for an organization that the sudden loss of nonprofit
14 status or the failure to pay prize fees or the third category
15 would be if a relevant person gets a disqualifying
16 conviction, which disqualifying convictions are only those
17 for gambling or fraud. Those are the types of convictions
18 the law requires us to deny or revoke a license for.

19 And so, Steve had asked for a little bit more
20 explanation on how that's going to be applied. And in
21 accordance with the BEA, this will be covered in the preamble
22 of the rule, the way that works is an organization may not
23 have any person involved in bingo with one of those
24 convictions. And a manufacturer or distributor and a lessor
25 may not have any person required to be named on the license

1 application with those convictions.

2 And so, -- and another thing that Steve asked
3 for is that the agency reach out to those licensees first
4 prior to suspending their license. Just give them a call and
5 say, hey, this guy's got a gambling conviction, you need to
6 remove him or we're going to suspend you.

7 And And so, I've added that provision to the
8 rule and then I've explained that --

9 MR. SMITH: Okay.

10 MR. VANCE: -- in the -- in the preamble that
11 in accordance with the Act these are the situations it's
12 going to apply for.

13 And, again, so for a conductor they can't have
14 anybody at all; officers, directors, employees, whatever,
15 that has one of those convictions. But for a manufacturer or
16 a lessor or a distributor, it's only somebody who's required
17 to be disclosed on the application, so a board member or an
18 officer is typically what it's going to be. So, an employee
19 not necessarily. A manufacturer could have a low-level
20 employee with a fraud conviction and if that person's not
21 required to be disclosed on their application, it will not
22 result in a temporary suspension.

23 MR. SMITH: Got you. Okay. Very good. Thank
24 you. That was from 700, correct?

25 MR. VANCE: And then his -- that -- correct.

1 That was on 700. And on 450, 450 is the negative net
2 proceeds waiver process.

3 And the original proposed amendment was just a
4 very, very small detail and Steve recommended a more thorough
5 re-evaluation of the whole thing. And so, he provided some
6 language and, you know, it treats it a little bit here just
7 to adjust formatting and whatnot.

8 But it -- generally, it's going to provide a
9 lot more specific information of what's required on a waiver,
10 what's -- what constitutes a credible business plan. It's
11 going to create a presumption that a business plan is
12 credible if it contains the information that's listed and if
13 the organization has not been granted a waiver in the
14 previous three years.

15 And then I went ahead and added after that,
16 that's not including any waiver granted on the grounds of
17 force majeure. So, for example, there's presumably going to
18 be a lot of waivers granted in the next few months and --

19 MR. SMITH: Yes, sir.

20 MR. VANCE: -- and that will be due to -- due
21 to COVID. And so, those will not apply against your three-
22 year look-back period, whether we consider -- there's a
23 presumption that your business plan is credible.

24 MR. SMITH: Excellent. Thank you, sir. All
25 right. Does anybody else have any comments on any of that?

1 All right. Melodye, does that -- is that good for you on
2 your report on the rules?

3 MS. GREEN: Yes. And I would like -- all
4 these -- the things that Tyler refers to and Bob, are those
5 going to come out again so we can look at that? Because what
6 we have in our hands is -- does not include any of these
7 revamping that we're talking about.

8 MR. VANCE: Sure. So that -- all this will be
9 included in the -- in the final adoption that's going to be
10 proposed. We'll propose it at the Commission next week and
11 Trace will be there. He can support it on your behalf -- but
12 I would recommend that the committee supports the
13 modifications that I've just talked about or doesn't. And
14 then if you support them, Trace will present next week before
15 I do and he can say that BAC supports the proposed rules as
16 amended with the changes that we've just discussed. And then
17 all of that will be published in the Texas Register next
18 week.

19 MS. GREEN: Okay. All right. Yeah. Thank
20 you.

21 MR. HANSON: Trace?

22 MR. SMITH: Yes, sir.

23 MR. HANSON: For the record, Tom Hanson.
24 Tyler, you want to talk about our review of the assault
25 section?

1 MR. VANCE: Sure. So, we've -- based on the
2 comments we received -- we've just kind of preliminarily
3 taken it out. I want -- of course we were waiting to see
4 what you guys said and then you guys, sounds like, sounds
5 like you unanimously support removing it.

6 So, at this point we're removing -- looks like
7 we're just going to take it out. So, it will not be in the
8 rules. It still is in the guidelines, but that's something
9 that Tom can do at a later time, can take it out. And, of
10 course, in the meantime he doesn't have to enforce that. So,
11 we'll move -- assuming this gets taken out, you know, the
12 Commissioners still have their say on it.

13 But assuming it gets taken out of -- out of
14 this rulemaking, then I think we'll move to take it out of
15 the guidelines as well and then should just stop looking at
16 it all together.

17 MR. MARTIN: That'd be great.

18 MR. SMITH: Excellent. Thank you very much.
19 We do appreciate that.

20 MR. HANSON: One other item --

21 MR. SMITH: I would like to -- oh. Go ahead.

22 MS. KIPLIN: Kim Kiplin here, and Tyler and
23 Tom Hanson, for myself I really appreciate your listening and
24 making this change. And certainly on behalf of the
25 Department of Texas, VFW, we really appreciate your

1 receptivity and your willingness to interpret the comment,
2 listen to the comment, and make the change. Thank you very
3 much.

4 MR. HANSON: Well -- for the record, Tom
5 Hanson -- thank you for that. And, Tyler, thank you for all
6 your work on this. And the comments from the industry.

7 I will say that if our mandate included
8 protection of the public, if that was stated in any type of
9 writing about what we were supposed to do, we couldn't do
10 this, but we do not have that mandate. Thank you.

11 MR. SMITH: All right. Excellent. Well, I
12 think at this point we probably need to make a motion that we
13 would support the rules as recommended by the BAC.

14 MR. VANCE: Trace, I'm sorry to interrupt you,
15 but Steve Fenoglio has his -- has his hand raised. And if
16 Bill could --

17 MR. SMITH: Oh, okay.

18 MR. VANCE: He'd like to speak on this.

19 MR. SMITH: Absolutely.

20 MR. FENOGLIO: Yeah. Hi. Thanks. I've been
21 trying to comment and for some reason could not. But my
22 machine showed my voice was picking up, but you all weren't
23 hearing me.

24 We support the comment -- on behalf of TCA --
25 we support the comments that were made by Ms. Kiplin and by

1 Mr. Bresnen and we also echo the comments of -- for Tom and
2 Tyler for being so open and available for comments. And I'll
3 be happy to answer any questions or shut up. Thank you.

4 MR. SMITH: All right. Anybody else need to
5 -- anybody else have their hand raised? All right. So, I
6 think we need to -- like Tyler said -- I think we need to
7 make a motion and have a vote on whether or not to support
8 the rules as there -- that -- how -- Tyler, can I get some
9 help on this? How should -- how should I word this?

10 MR. VANCE: Sure. I would say --

11 MR. SMITH: As has been amended? Or --

12 MR. VANCE: Correct. Yeah. I would say to,
13 you know, move to support the adoption of these rules with
14 the changes that have been described.

15 MR. SMITH: Okay. Excellent, thank you.
16 Thank you. All right. So, can we get a motion to --

17 MR. DUNCAN: This is Tommy. I'll make a
18 motion to accept.

19 MS. GREEN: Second.

20 MR. POHL: This is Jason Pohl. I'll second.

21 MR. SMITH: Alrighty. And I guess we'll vote.
22 All in favor aye.

23 (Chorus of "ayes")

24 MR. SMITH: All right. Well, I think that's a
25 unanimous vote there. Excellent. And I would -- I would

1 like to thank Tom and the staff and everyone for being so
2 receptive. Because we've had years of time periods where
3 what we said didn't really count. And it is really a breath
4 of fresh air and it's nice to have people that act
5 professional and treat us as colleagues and regular people.
6 And we appreciate that and it is duly noted.

7 MR. DUNCAN: I'll second that.

8 AGENDA ITEM 6

9 MR. SMITH: All right. All right. Next item:
10 Discussion and possible actions on the recommendations for
11 BAC nominations. Kim, you want to take this?

12 MS. ROGERS: Sure. Good morning. Kim Rogers.
13 We are, as written in the rules of the Bingo Enabling Act to
14 have nine members. We have eight. I know finding someone to
15 fill the public was very difficult. Whether or not it was
16 just getting someone to submit their nomination forms or be
17 classified as a quote unquote public member.

18 Veronica, I believe you're on as a lessor.
19 You were the last one that we added on.

20 MS. URIEGAS: Well, I -- Kim, if everybody --
21 I don't know if you guys remember, but we had spoke to Corey
22 Harris and we had asked that he be put up for discussion. I
23 don't know -- that was kind of like, I think, before the
24 holidays. So, I don't know what ever became of that.

25 MS. ROGERS: Was he supposed to show up at one

1 of our meetings and did not? That --

2 MS. URIEGAS: We were supposed to invite him
3 and that was passed on to somebody else, and so I don't know
4 if that just fell through the cracks. Because we -- you and
5 I were told we weren't -- we didn't need to contact him.
6 That somebody -- and there's an email somewhere I think that
7 somebody was going to contact him. But I don't know -- I
8 can't remember who it was. But that was -- if we can look at
9 the notes I'm sure somebody could figure out who was supposed
10 to do that.

11 So, I don't know if he's still interested and
12 I don't know how that process works.

13 MS. ROGERS: Was he a public member?

14 MS. URIEGAS: Yes.

15 MS. ROGERS: Okay. And so what --

16 MS. URIEGAS: And that --

17 MS. ROGERS: So maybe it was the Lottery or it
18 was us that was supposed to contact him.

19 MS. URIEGAS: It was not the -- anybody from
20 the BAC. I don't know if -- it was probably from the
21 Lottery. And I'm going to look through my notes real quick
22 and see if I have anything.

23 MS. ROGERS: Okay. Well, if he is a public
24 member that you spoke with, I seem to recall he's a real
25 estate agent.

1 MS. URIEGAS: Yes. But --

2 MS. ROGERS: Last time -- okay. Was very
3 interested. Tom, you and I kind of briefly spoke through an
4 email just to see if you had any nomination forms. But is
5 this something that we can finish?

6 We have already talked to him. We formed a --
7 not a committee -- a work group, myself and Veronica, where
8 we would call the individuals that submitted forms and speak
9 to them. And I think that helps with talking to them.

10 What procedure would you like to go forward
11 with if we want to talk about putting Corey Harris as the --
12 or talk -- interviewing him with the BAC? How would you want
13 to handle that?

14 MR. HANSON: So, for the record Tom Hanson.
15 My suggestion would be that you go ahead and have that
16 conversation. And if he decides that he wants to do this,
17 we'll send him a form. And, of course, he will have to have
18 a criminal background done. And then it'll -- it could be
19 set up for a vote once it's approved at the next BAC. If
20 that's acceptable to you all.

21 MS. URIEGAS: Excuse me. I -- we did that
22 back in the winter. After I spoke to him we had agreed that
23 we were going to -- we had all voted on having him --
24 somebody was supposed to contact him from the Lottery
25 Commission is what I'm reading.

1 MR. HANSON: All right.

2 MS. URIEGAS: Because he said that he was
3 interested.

4 MR. HANSON: If we -- if we dropped the ball,
5 we'll reach out to him and make sure that everything is set
6 up for that and see if he's still interested.

7 MS. ROGERS: So why don't we -- let me kind of
8 -- let me kind of put a -- lay out a form here. Why don't I
9 contact him, see if he's still interested. I don't want to
10 take up your time, Tom. And then if he is, then I will
11 submit to you his telephone, his name, and everything. You
12 -- I'm sure his nomination form is somewhere. And if you
13 don't have it --

14 MS. ROGERS: I have it -- Okay. Then we can
15 get that to you and then you can take it from there.

16 MR. HANSON: That'd be fine. I just got a
17 message from Angelica indicating that we did receive an
18 application and we may have already conducted a background.
19 I'll be able to know -- let you know that within a couple
20 hours.

21 MS. ROGERS: Sounds wonderful. You let me
22 know that. And -- but I still need to call him, because I'm
23 pretty sure, you know, it's been quite a while and through
24 this pandemic he hasn't heard from us. So, --

25 MR. HANSON: You bet. If you can hold off

1 until I get the results of the application -- or the
2 submission.

3 MS. ROGERS: Yes, sir. Yes, sir. I will do
4 that.

5 MR. HANSON: All right. Thank you.

6 MS. ROGERS: And so, members, we will bring
7 you all -- we'll send an email out to let you know if he's
8 going to be and -- at our next meeting we'll -- for him to
9 start, or something of that nature. Any comments on this?
10 Okay. Then I think this takes care of Item 8.

11 AGENDA ITEM 7

12 MR. SMITH: Alrighty. Good deal. All right.
13 I guess we'll move on to number 9 in our -- or, excuse me.
14 Any old business? Any public comment on old business?
15 Alrighty.

16 AGENDA ITEM 8

17 MR. SMITH: Any new business? Any public
18 comment on new business? Anything anybody wants to bring up?

19 MS. URIEGAS: I have something I'd like to
20 bring up, actually. I saw somebody put out an email
21 regarding the Facebook games -- Facebook live regarding the
22 gambling. Is there something we can do as a group, or do we
23 have to do it as individuals? I get -- I'm like everybody
24 else getting texts and emails with Facebook lives of people
25 opening pull-tabs and that kind of thing.

1 I mean, what do we recommend? I mean, is
2 there anything we, like I said, do we do it as a group? Do
3 we do it as individuals? I know it's hurting my business, so
4 --

5 MR. SMITH: Yes, it definitely is. I think
6 it's hurting all of our business.

7 MR. POHL: It is hurting all the businesses.

8 MR. SMITH: Tom, do you want to kind of maybe
9 brief everybody on what the Commission's doing on that? Or
10 do you want to run with that a minute? Or --

11 MR. HANSON: For the record Tom Hanson. Yes.

12 Okay. So, there's three ways of taking care
13 of this or at least dealing with it. Number one is if you go
14 to that particular site you have the ability to report that
15 site for illegal activity. That'd be the first step for
16 anybody who sees it.

17 The second way would be to get as much
18 documentation as you can. Good photographs. Especially if
19 it involves pull-tabs. Ways that we can identify that by its
20 game name, by a serial number, so that we can reach out to
21 the manufacturers, get them to stop selling those.

22 The third method is to submit a complaint via
23 our complaint form and give us as many specifics as you can
24 to include names of folks or the site itself, and we'll look
25 at that.

1 We have received several complaints. The
2 Enforcement Division has conducted investigations, has sent
3 certified letters when they could identify the individuals,
4 have reached out to them by phone if they can, have reached
5 out to Facebook from a law enforcement perspective, and asked
6 that those sites be terminated.

7 If and when the travel ban is lifted, the
8 investigators have plans to reach out to those individuals
9 face-to-face. But that's where we stand right now. Any
10 questions, any comments that you may have, reach out, let me
11 know, and we'll do what we can.

12 MS. GREEN: I -- Tom, I have a question. This
13 is Melodye. You have been able to identify individuals
14 themselves?

15 MR. HANSON: Yes. In some cases they are
16 folks on the worker registry.

17 MS. GREEN: Yes.

18 MR. HANSON: And with those they are receiving
19 letters. That act in and of itself may lead to them being
20 disqualified as a bingo worker.

21 MS. GREEN: Well, you mentioned about the
22 pull-tabs. And if you see a serial member because I've seen
23 it on like I said Facebook very quickly and that, you know,
24 if I'm looking at it, they can't see it immediately. But
25 some of these pull-tabs they're running are pull-tabs that we

1 run. You know, so you mentioned about having (indiscernible)
2 pull-tabs. And it just might be individuals, not the whole
3 pull-tab itself. Because these are tabs that we do run
4 legitimately.

5 MR. HANSON: Yes. But if they are sold on
6 Facebook, it's outside of the licensed time or the location.
7 Does that --

8 MS. GREEN: Oh, yeah. No, they're doing it
9 completely illegal. Yes. Yeah. It was just very
10 frustrating. It's not really the distributor's fault if the
11 registered worker has ability to go in and steal the pull-
12 tabs.

13 MR. HANSON: Agreed.

14 MS. GREEN: They -- that's the --

15 MR. HANSON: And that would -- and that would
16 come out of the investigation. I have a lot of faith in
17 those enforcement folks, having been one of them for 15
18 years. I know that they're working hard at this and I know
19 that with -- they're going to do due diligence and try and
20 identify how they came into possession of the pull-tabs if in
21 fact they were using them.

22 MS. GREEN: Right.

23 MR. HANSON: I notice that Emile has his hand
24 raised and would like to make a comment.

25 MR. BOURGOYNE: Yes, Tom. Thank you. What I

1 would ask you to do is when we trace those tickets back to a
2 distributor, we can also trace them and would like for you to
3 contact their regulators, because they're violating their own
4 state statutes by selling product outside of the licensed
5 games in most of these cases.

6 MR. HANSON: I don't disagree with that. And
7 we also reach out to the manufacturer in order to identify
8 where those pull-tabs came from and who they were distributed
9 to. So, unfortunately they are available on the internet
10 these days. We've been able to actually shut down some of
11 the sites, but not all of the sites.

12 MR. SMITH: Tom, this is Trace. So, -- and
13 maybe this is an odd question, but you had mentioned earlier
14 that some people had been taken off of the registry. That's
15 -- to somebody that's making 5-, 6-, \$700 a day, that's not a
16 big issue. Is there criminal charges being filed as well by
17 the Lottery? I mean, is that a felony? Wouldn't that be?

18 MR. HANSON: Okay. So, we have two things
19 going on. I'm sorry if I implied that there have actually
20 been any acts that have been -- have led to someone being
21 removed from the worker registry. What I was saying is that
22 particular act can create a situation in which they are
23 removed.

24 Yes. There are criminal charges, and those
25 are something I'll leave to the investigators to discuss with

1 the prosecutors. But yes, it is a felony to conduct bingo
2 without a license in this state. Pull-tab is part of bingo,
3 therefore, it's a third-degree felony if, in fact, they were
4 operating via Facebook and conducting bingo. Tyler, would
5 you agree with that?

6 MR. VANCE: Yeah. That's exactly right.

7 MR. SMITH: Okay. Alrighty. Okay. Anybody
8 else want to comment on the Facebook or the pull-tab stuff?

9 MS. URIEGAS: Hello. This is Veronica.

10 MR. SMITH: Yes, sure.

11 MS. URIEGAS: Who decides if they are removed
12 from the registry and how do we go about doing that?

13 MR. HANSON: So, if, in fact, the organization
14 -- or, excuse me -- the investigation leads to the
15 identification of a person who is on the worker registry, the
16 investigation identifies them and provides that documentation
17 to us. We have the ability to move forward with an
18 administrative action.

19 If that individual is prosecuted for that act,
20 once we know that they have been convicted, then we have the
21 ability to remove them based on the conviction. That help?

22 MS. URIEGAS: It does. And so, what kind of
23 time frame would, I mean, just a guestimate of once somebody
24 is turned in and, I mean, we know the name, the address,
25 they're on the registry, you contact them and it is a felony

1 because they're doing it for thousands and thousands of
2 dollars and they're saying it's for charitable and it's not.
3 So, what, like, once that is done how -- what do you think
4 the timeframe would be to where charges would be filed and
5 prosecuted?

6 MR. HANSON: It's hard to say that at this
7 point. I know that in personal contact with the prosecutor
8 in Dallas, I was told that it was anywhere from nine months
9 to a year before they were going to look at nonviolent
10 criminal acts for the grand jury. Not sure how it is in
11 other parts of the state, but I know COVID is creating a
12 situation in which it's hard to have a grand jury together in
13 a small environment looking at these cases.

14 It used to be anywhere from six months to a
15 year before we got a prosecution completed. I can't say it's
16 going to be that. It could be longer. It really depends on
17 the location.

18 MS. URIEGAS: So, I guess my -- another
19 question would be, is Facebook closing those sites down?

20 MR. HANSON: So, I've been under the
21 impression that there have been a few that have been shut
22 down based on the submission from the investigators. There
23 is a law enforcement path to Facebook, and there is also a
24 personal path to Facebook, to report criminal acts.

25 It is my understanding in some circumstances

1 that the site has been shut down and then opened back up
2 under another name and promoted to individuals that were on
3 the original list. So, we're not getting them all down, but
4 we are hitting them as we can. It's kind of like whack a
5 mole at this particular point in time. But we are trying.

6 MS. URIEGAS: Okay. Thank you.

7 MR. SMITH: So,, Tom, let me -- let me ask a
8 question. I know that by the rules and by the law that what
9 they're doing is illegal. Would it give the investigators
10 and the Lottery Commission staff more teeth if maybe we wrote
11 a rule that says -- I know it would be redundant, but we have
12 a lot of redundancy in our rules and our laws. But saying
13 that Facebook gambling, Facebook pull-tabss, all that, and
14 list those items, you know, are a third degree felony if
15 you're caught doing it. Would that give the investigators
16 and maybe the prosecutors some teeth?

17 I think one of the issues with the eight-
18 liners back in the day is -- and playing wack a mole, was
19 that the prosecutors did not feel like they had enough teeth
20 to go after certain places. Would that benefit the agency
21 and the industry as well to actually have a rule stating that
22 all of that's illegal?

23 MR. HANSON: So, I'm going to ask Tyler to
24 weigh in on this.

25 MR. VANCE: Sure. So, I'd -- I think this is

1 pretty clearly different than the eight-liners. The problem
2 with the eight-liners is that there is -- people can have a
3 reasonable disagreement as to whether or not it's actually
4 gambling. And so, from the prosecutorial standpoint, first
5 of all, they have to prove that it's gambling. And that's
6 difficult with the eight-liners.

7 Whereas with this, this is clearly bingo, and
8 then the issue is, do you have a license or not? And if you
9 don't have a license, then it's a felony. So, this is, from
10 my viewpoint, is a pretty easy case to prosecute, but that
11 doesn't mean that it's a high priority or that, you know,
12 they necessarily will. But I don't think that we really need
13 a rule. I mean the -- a prosecutor doesn't care about our
14 rules, they only care about what the state law says. And the
15 state law says that this is -- this is clearly a felony. So,
16 it's just up to -- up to the DAs and the local city councils
17 whether or not they want to go after it.

18 MS. URIEGAS: So, does that include the
19 virtual horse races that they're doing online?

20 MR. DUNCAN: Yes.

21 MR. VANCE: Yeah. I would assume that, I
22 mean, that would be for the Racing Commission. But
23 presumably the Racing Commission Act says the same thing that
24 -- as ours. That if you do -- if you're doing a horse race
25 without a license, it's a felony.

1 MS. URIEGAS: I'm sorry. That's not -- so, a
2 horse race is a -- is a type of --

3 MR. VANCE: Oh the -- a type of bingo. Yeah.
4 Any type of bingo, whether it be pull-tab or any -- Loteria
5 or anything defined as bingo in the Bingo Enabling Act
6 requires a license. And if you don't have a license then
7 it's felony gambling.

8 MS. URIEGAS: Okay.

9 MR. DUNCAN: Trace, just so you know, you said
10 5- to 700 a day. Some of these folks are knocking down 3- to
11 7,000 a day.

12 MS. URIEGAS: Exactly.

13 MR. DUNCAN: On these horse races.

14 MS. URIEGAS: There's some that are up to
15 \$10,000, and that game sold out in 15 minutes.

16 MR. DUNCAN: And they probably made five grand
17 on that.

18 MS. URIEGAS: Exactly. That was exactly what
19 it was.

20 MR. SMITH: Well, sounds like we're in the
21 wrong business, guys.

22 MS. URIEGAS: Exactly.

23 MR. HANSON: For the record Tom Hanson. I
24 didn't hear that.

25 MR. DUNCAN: They're like knock-knock rooms.

1 It's very difficult for any investigator to get into these
2 rooms, because if they don't know you, they don't let you in.

3 MR. SMITH: Yeah.

4 MR. HANSON: Yeah.

5 MR. VANCE: Guys this Tyler Vance. You know,
6 we've talked about kind of how the Commission has somewhat
7 limited jurisdiction and then, you know, whether a DA wants
8 to take this. You know, I would encourage you to reach out
9 to your congressman and, you know, the session's coming up
10 and this is only going to become more and more of a problem
11 in the future. And so, I would encourage you to reach out to
12 your legislators and try to seek a solution through them.
13 Maybe stronger penalties or, you know, something to
14 incentivize prosecutors to go after this.

15 MR. DUNCAN: I agree.

16 MR. SMITH: Okay. Excellent. All right. Any
17 other comments on the Facebook gambling? All right.

18 AGENDA ITEM 9

19 MR. SMITH: Okay. Let's try to set a date for
20 the next meeting. The next Commission meeting is next
21 Thursday, October the 1st. Do we want to set one for
22 November? And maybe before the holidays get started?

23 MR. DUNCAN: Well, we want to set it in time
24 to be able to bring the electronic gift card back up. So, --

25 UNIDENTIFIED VOICE: Yes.

1 MR. SMITH: Okay. What -- have you got a
2 suggestion, Tommy, on that -- or --

3 MR. DUNCAN: When's the next Commissioners
4 meeting after October 1st?

5 MR. VANCE: We don't have it scheduled, but
6 we're aiming for December. December is usually when we have
7 our last one of the year.

8 MR. DUNCAN: Well, November would be -- would
9 be good then, Trace. That'll give Tyler and them plenty of
10 time if they need to prepare anything before the meeting.

11 MR. SMITH: Okay.

12 MR. BIARD: Well, just to be clear, there's a
13 practice under the Governor's Office that any rule proposal
14 that we're going to be making -- I'm sorry. This is Bob
15 Biard for the record.

16 We have to submit that to them a month in
17 advance of the meeting. The current December meeting is set
18 for December 3rd.

19 MR. SMITH: Okay. If we're wanting to do that
20 then we would have to do it on Monday, November the 2nd. Is
21 that correct, Bob?

22 MR. BIARD: Well, some time that week. I
23 mean, we would have to get a memo -- we would have to have
24 our -- I mean, we would have to have our documents ready by
25 the first week of November. So, for whatever you all want to

1 do in advance of that would have to happen before the first
2 week of November.

3 MS. URIEGAS: What about the third week of
4 October?

5 MR. SMITH: I am going to -- the third week of
6 October? I am going to be out of the country that -- wait.
7 Are you talking about the 19th through the 23rd?

8 MS. URIEGAS: Yes. Well, we could do it
9 somewhere either the 13th or 27th so that they could have
10 enough time to do what they need to do.

11 MS. ROGERS: I'm available both.

12 MR. SMITH: Okay. Okay. I'm going to -- I'm
13 going to ask Steve Fenoglio what -- Steve Fenoglio, what are
14 your thoughts on this? On time frames? Do you think we
15 would have time to maybe collaborate and look at this and get
16 this thing in on time? I'm just -- I'm curious.

17 MR. FENOGLIO: Raising my hand. Can you hear
18 me now?

19 MR. HANSON: Yes, with much echo.

20 MR. ASHLOCK: Yeah. I'm not sure what's going
21 on --

22 MR. SMITH: Steve, are you on headphones or
23 anything? Or --

24 MS. ROGERS: Trace, Kim Kiplin also has her
25 hand raised.

1 MR. SMITH: Okay. Kim, you want to go ahead
2 while Steve fixes his technical issue?

3 MS. KIPLIN: Sure. Kim Kiplin here for the
4 record. I guess I was confused when we talked in -- earlier
5 about the comments re -- that you all received by the
6 Kickapoo Tribe and that you're going to pull down the
7 electronic gift card. Are you formally ending that
8 rulemaking, or are you just not going forward at the October
9 meeting to present it for adoption? Because if you're not --
10 if you're just not going to present it, then it's still a
11 live rulemaking as long as we're obviously within the six-
12 month period of time.

13 And then I guess I want to be clear. Does
14 that mean, if it's a current rulemaking but there will be
15 amendments to it with response to comment, do you have to
16 submit that to the Governor's Office for review 30 days prior
17 to a meeting?

18 MR. VANCE: Bob, I'm going to defer to you on
19 this one. I'm -- Kim is correct, it will still be a live
20 rule. I'm not sure about the Governor's Office.

21 MR. BIARD: Yes. Well, the current plan is to
22 bring the package for adoption at October 1st without this --
23 without this one proposal in it.

24 MS. KIPLIN: But does that mean that it's
25 still live and you've left it --

1 MR. BIARD: No. It means you'd have to start
2 new rulemaking.

3 MS. KIPLIN: Okay. So, you're formally
4 withdrawing it. Thank you for the clarification.

5 MR. BIARD: I mean, that's the current plan.
6 There's --

7 MR. DUNCAN: Wow. You're formally withdrawing
8 that over one comment last night.

9 MR. BIARD: Yes, sir. It needs to be worked
10 out. It may require some time and I don't think we have
11 enough time before we have the Commission meeting to be sure
12 that we can do all that and then run everything by all of you
13 guys.

14 MS. ROGERS: So, -- I have my hand raised, but
15 I'll lower my hand.

16 MR. SMITH: Okay so --

17 MS. ROGERS: So, whatever they -- you -- so,
18 Bob, redoing this, then Kickapoo once again is going to have
19 to agree with it?

20 MR. BIARD: I don't get to decide these
21 things. But --

22 MS. ROGERS: Oh. I -- right. And I'm not
23 asking --

24 MR. BIARD: But I will tell you -- but I
25 believe what we would like to do, is we would like to come up

1 -- we would like to make sure everyone's on board and not
2 receive a second comment from the Kickapoos that say hell no
3 to this proposal. So, that is what -- that's just the world
4 that we live in that forces the people who keep a watch on
5 what we do.

6 If you want to go through this process and not
7 get into a fight, yeah, that's what you have to do is try to
8 find a language that accommodate everyone's interests. Which
9 I hope we can do. We've always, I mean, we've been able to
10 do that on different occasions in the past. But, you know,
11 it's going to require some engagement. And they did -- they
12 commented within the time period, so it's not like this is a
13 late comment or anything.

14 It's just, you know, most state agencies don't
15 just propose rules at one meeting and bring it back to the
16 next meeting for adoption. We're kind of unique and
17 accommodating to do that here. But, you know, we -- the
18 rulemaking, as Kim alluded to, could take up to six months to
19 do. But, you know, we try to bring them around. We try to
20 turn them around as quick as we can. But if we're going to
21 do that, then that kind of -- if there's a hiccup on
22 something, then it's going to take us more time.

23 MR. SMITH: So, if I understand this
24 correctly, you're pulling that from the rulemaking process.
25 So, in order to revisit that, we have to start from scratch.

1 Is that correct?

2 MR. BIARD: Starting from scratch just means
3 to present a new rulemaking proposal at a second Commission
4 meeting. It doesn't undo all the work you've done already.
5 It just means currently it's taken out.

6 MR. SMITH: Right. But, I mean, we have to
7 restart the whole process with respect to that.

8 MR. BIARD: Right. And, I mean, the other
9 alternative --

10 MR. SMITH: Okay.

11 MR. BIARD: -- is to just not bring the rules
12 up for adoption at the October Commission meeting.

13 MR. FENOGLIO: Well, this is Fenoglio. I
14 think we should get the rules that we can agree on adopted,
15 and I say we, we've all agreed on that.

16 MR. SMITH: I agree.

17 MR. FENOGLIO: And it may be that this one
18 rule we can work with the Kickapoos on, or if we can't, we at
19 least aren't blindsided at the last moment by a comment that
20 they made. So, I think Bob --

21 MR. DUNCAN: Did we get forwarded a copy of
22 that comment?

23 MR. FENOGLIO: We'll get one. Yes. But I
24 think what Bob has laid out, and I guess Tom, is the most
25 appropriate thing to do right now, given, you know, this

1 isn't their fault. This is something Kickapoo just -- a
2 drive-by filing.

3 They know some of us in here and they could've
4 reached out to us, but they chose not to for whatever reason.
5 So, let's get the rule -- there are some rules that are very
6 important that need to be adopted in my view, and so let's
7 get those adopted and we'll come back on this one rule.

8 That's my view.

9 MR. SMITH: I'll agree with that.

10 UNIDENTIFIED VOICE: I agree.

11 MS. KIPLIN: This is Kim -- this is Kim Kiplin
12 here. And I support Steve Fenoglio's view on that. We don't
13 want to lose, you know, all the rulemaking. The staff has
14 decided that they're going to just pull this down. I think
15 it will probably require some meetings, several
16 communications with the commenter and everybody to get
17 comfortable with that or know where they stand and move
18 forward any way, if possible.

19 So, I support your comments, your insight, and
20 also on the staff's part I think it's probably the prudent
21 thing to do, given the commenter. And then let's move
22 forward with what we can. Thank you.

23 MR. SMITH: Thank you, Kim. I appreciate it.
24 All right. So, back to the next date. Tommy, I'm sorry, I
25 know you wanted to get this done, but it doesn't look like

1 it's going to happen by the end of this year.

2 MR. DUNCAN: Oh, no. I don't -- I don't have
3 a problem with that. I'm in agreement with Steve, too. We
4 need to get the ones passed we can.

5 MR. SMITH: Good deal. So, do you all want to
6 look at doing, like, a mid-November meeting to kind of get
7 things wrapped up before the holidays kick in, or do you all
8 want to postpone it to -- I think we've met our requirements
9 for the meetings -- the amount of meetings that we have this
10 year.

11 I think this will be -- I think we're required
12 to meet once a quarter, I believe, and I think we've -- I
13 think we've met that. So, do you all want to do a mid-
14 November meeting? Say maybe something the 9th through the
15 13th before holidays come in?

16 MS. URIEGAS: That'll work.

17 MR. MARTIN: This is Will Martin. Just
18 remember, November the 11th is Veteran's Day, so around that
19 sacred holiday we -- there's a lot of stuff going on.

20 MR. SMITH: Okay. Well --

21 MS. URIEGAS: What about the 12th?

22 MR. SMITH: Well, let me ask you, what about
23 that following week, the 17th through the 20th? Anybody got
24 an issue with that one?

25 MR. MARTIN: That would be great.

1 MS. ROGERS: I'm available. Kim Rogers.

2 MS. URIEGAS: That'll work.

3 MR. SMITH: Okay let's -- okay. Let's say
4 November 17th maybe?

5 MS. URIEGAS: 10:00 a.m.?

6 MR. SMITH: Works for me.

7 MS. URIEGAS: All right.

8 MS. GREEN: Mm-hmm. So,unds good.

9 MS. ROGERS: And we're leaving the option open
10 that we can maybe be able to have it in Austin at a face-to-
11 face, or are we --

12 MR. HANSON: I don't think we're going to see
13 major changes between now and the middle of November, so I
14 would recommend that you all look at another Zoom meeting at
15 least until January.

16 MS. ROGERS: Okay.

17 MR. SMITH: Okay.

18 MR. HANSON: And we'll get better at this,
19 too.

20 MS. ROGERS: At our -- Trace -- at our next
21 meeting, can one of you say the Pledge of Allegiance and then
22 we'll follow with the Texas?

23 MR. SMITH: Yeah. That's what I was going to
24 -- I was going to comment on that. I know we didn't have
25 that today and one of the reasons was because of all the open

1 mics.

2 However, I would like to suggest that the next
3 meeting, what Kim is suggesting is that one person actually
4 say the Pledge of Allegiance and another person actually say
5 the Texas Flag Pledge as well. And that sounds like a
6 wonderful idea, Kim. I will be glad to do that, or Will, we
7 can swap off.

8 I think that's an integral part of our
9 meetings, and I get why it was not done this time. I think
10 it would -- I think it would be sad if we didn't at least
11 have someone read it with a mute on, or something like that.
12 That way we can at least accomplish that.

13 MR. DUNCAN: Thank you.

14 MS. ROGERS: Thank you.

15 AGENDA ITEM 10

16 MR. SMITH: All right. So, we've got the next
17 date set. The only thing left to do is adjourn. Thank you,
18 everyone, and remember be safe. And if you need to email or
19 call, I'm always available. But I respond better to calls.

20 MR. HANSON: I thought you respond better to
21 text messages.

22 MR. SMITH: Well, I do respond better to text.
23 It -- that's why on my answering service it says, please text
24 me.

25 MR. HANSON: All right. I will just extend my

1 thanks to the group for your participation in the process and
2 thank you for all the nice comments. And Tyler and Bob, I
3 hope you hear, these folks are happy and we're doing the best
4 that we can for them.

5 MR. BIARD: Thank you.

6 MR. VANCE: Thank you.

7 MR. SMITH: All right. Bye, you all. Be
8 good.

9 UNIDENTIFIED VOICE: Bye.

10 UNIDENTIFIED VOICE: Thanks.

11 MS. ROGERS: Thank you.

12 MR. SMITH: Bye.

13 (Meeting adjourned at 11:30 a.m.)

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

STATE OF TEXAS)

COUNTY OF HARRIS)

I, Kimberly C. McCright, Certified Vendor and
Notary in and for the State of Texas, do hereby certify that
the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were
reported by me or under my supervision, later reduced to
typewritten form under my supervision and control and that
the foregoing pages are a full, true and correct
transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and
seal this 5th day of October, 2020.

/s/ Kimberly C. McCright
Kimberly C. McCright
Certified Vendor and Notary Public

Verbatim Reporting & Transcription, LLC
17049 El Camino Real, Suite 200
Houston, Texas 77058
281.724.8600