

TEXAS RACING COMMISSION

MEETING

10:30 a.m.  
Tuesday,  
October 9, 2018

Capitol Extension  
Room E2.010  
1100 Congress Avenue  
Austin, Texas

COMMISSIONERS PRESENT:

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

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
I. CALL TO ORDER Roll Call	5
II. PUBLIC COMMENT	none
III. GENERAL BUSINESS	
A. Discussion and consideration of reports by the Executive Director and staff regarding administrative matters:	
1. Budget and finance	6
2. Wagering statistics	7
3. Enforcement	8
B. Discussion and possible action on a legislative housekeeping proposal to the 86th Texas Legislature, Regular Session	9
IV. PROCEEDINGS ON MATTERS RELATED TO AGENCY FUNDING	
A. Discussion and possible action to direct staff regarding the issuance of a request for proposals regarding a third-party economy, efficiency, and effectiveness review, audit, or similar process	18
B. Discussion and possible action to adopt amendments to 16 TAC § 309.13, Supplemental Fee	22
V. OTHER PROCEEDINGS ON RULES	
A. Discussion and possible action to withdraw and repropose amendments to 16 TAC § 313.405, Whips and Other Equipment	24
B. Discussion and possible action to propose amendments to 16 TAC § 321.320, Super Hi-Five	25
C. Discussion and possible action to propose the repeal of:	
1. 15 TAC § 311.52, Spouse's License	29

- 2. 16 TAC § 321.41, Cashing Outstanding Tickets 30
- 3. 16 TAC § 321.42, Cashing Outstanding Vouchers 30

## VI. PROCEEDINGS ON RACETRACKS

- A. Discussion and possible action on ownership and management reviews of active racetrack licenses under 16 TAC §309.53: 33
  - 1. Gillespie County Fair
  - 2. Gulf Greyhound Park
- B. Discussion and possible action on applications by inactive racetrack license holders for license renewal under 16 TAC §309.52:
  - 1. Manor Downs 35
  - 2. Laredo Downs 38
  - 3. Valle de Los Tesoros 38
- C. Discussion and possible action to allocate live race dates for greyhound racetracks under 16 TAC §303.41 for the period beginning December 1, 2018, and ending August 31, 2020 41
- D. Discussion and possible action to reallocate interstate cross-species purse money under Commission Rule 303.102(d) for the period from February 26, 2018, through February 23, 2019 43
- E. Discussion and possible action to allocate interstate cross-species purse money under Commission Rule 303.102(d) for the period from February 24, 2019, through February 26, 2020 46
- F. Discussion and possible action to allocate funds for the Texas-bred incentive program as provided under Commission Rule 321.505(b) 47
- G. Discussion and possible action to allocate purses as provided under Commission Rule 321.505(a) 50
- H. Discussion and possible action on distribution of funds in the escrowed purse account among the various breeds of horses 50

under Commission Rule 321.509

VII. EXECUTIVE SESSION	none
VIII. SCHEDULING OF NEXT COMMISSION MEETING	55
IX. ADJOURN	55

P R O C E E D I N G S

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

5 Jean, would you please call the roll?

6 MS. COOK: Yes, sir.

7 Commissioner Hicks?

8 COMMISSIONER HICKS: Here.

9 MS. COOK: Commissioner Mach?

10 COMMISSIONER MACH: Here.

11 MS. COOK: Commissioner Martin?

12 COMMISSIONER MARTIN: Present.

13 MS. COOK: Dr. McNabb?

14 COMMISSIONER McNABB: Here.

15 MS. COOK: Commissioner Kleinschmidt?

16 COMMISSIONER KLEINSCHMIDT: Here.

17 MS. COOK: Vice-Chair Ederer?

18 COMMISSIONER EDERER: Here.

19 MS. COOK: And Chair Steen?

20 CHAIRMAN STEEN: Here.

21 Do we have a quorum?

22 MS. COOK: Yes, sir.

23 CHAIRMAN STEEN: Thank you.

24 The next item, item II, public comment. Jean,  
25 has anyone signed up for public comment?

1 MS. COOK: No, sir.

2 CHAIRMAN STEEN: Okay. Before we get started,  
3 I'd like to welcome our newest commissioner, Dr. Connie  
4 McNabb. Good to have you with us.

5 COMMISSIONER McNABB: Good to be here.

6 CHAIRMAN STEEN: I know you have a history with  
7 the Commission, so we're excited about getting you up and  
8 running as soon as possible.

9 COMMISSIONER McNABB: All good.

10 CHAIRMAN STEEN: Next is agenda item III.A.1.  
11 Budget and finance report.

12 Gerry Dube, would you please give us the  
13 update?

14 MR. DUBE: Good morning, Chairman Steen,  
15 commissioners.

16 CHAIRMAN STEEN: Good morning.

17 MR. DUBE: My name is Gerald Dube and I'm  
18 Director of Administration for the Texas Racing  
19 Commission.

20 On pages 5 and 9 of your agenda packet are the  
21 agency's fiscal year 2018 operating budget reports with  
22 revenue collection and expenditures through the end of  
23 August 2018. With 100 percent of 2018 fiscal year  
24 completed, the agency collected approximately \$7.64  
25 million, or 101.5 percent of projected revenue, and

1 expended \$7.23 million, or 97.15 percent of budgeted  
2 expenditures. Of the \$7.23 million in expenditures,  
3 approximately \$6.21 million are appropriated expenditures  
4 and \$1.02 million are unappropriated expenditures, such as  
5 the agency's share of retirement, health costs, employee  
6 insurance and FICA costs.

7 And that completes the financial report.

8 CHAIRMAN STEEN: Commissioners, do you have any  
9 questions?

10 (No response.)

11 CHAIRMAN STEEN: Thank you, Gerry.

12 MR. DUBE: Thank you.

13 CHAIRMAN STEEN: Next item is agenda item  
14 III.A.2. Wagering statistics report.

15 Curley Trahan, are you here to give us the  
16 report?

17 MR. TRAHAN: Thank you, Mr. Chairman. Good  
18 morning, commissioners.

19 In your meeting materials on pages 10 through  
20 12 is the comparison report on wagering statistics for the  
21 period of January 1 through July 31. The report compares  
22 the current year handle figures against those of 2017 for  
23 the same period.

24 For the 2018 reporting period, total wagering  
25 activities at the greyhound racetracks increased by 2.29

1 percent over the same period in 2017, equating to nearly  
2 \$568,000 in additional handle. Total wagering activities  
3 at the horse racetracks showed a decrease of 2.83 percent  
4 for 2018 as compared to 2017, representing a decrease in  
5 handle of just over \$7 million.

6 Overall total wagering placed in Texas  
7 decreased by 1.51 percent or just over \$2.752 million.  
8 Total wagers placed on Texas races reflects a decrease of  
9 5.65 percent or just over \$6,177,000 in handle.

10 I'd be happy to answer any questions.

11 CHAIRMAN STEEN: Commissioners, do you have any  
12 questions?

13 (No response.)

14 CHAIRMAN STEEN: Thank you, Curley.

15 MR. TRAHAN: Thank you.

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

18 Jim Blodgett, will you please present the  
19 report?

20 MR. BLODGETT: Mr. Chairman, commissioners,  
21 good morning.

22 Commissioners, your enforcement report this  
23 morning can be viewed on page 13 in your materials packet.

24 This report highlights the violations handled by  
25 personnel during the Retama Park mixed breed race meet and



1 the Gillespie County Fair mixed breed race meet this  
2 summer.

3 Please keep in mind when reviewing these enforcement stats  
4 that these numbers represent only the violations that were  
5 adjudicated by our judges during this time frame and that  
6 there are violations not included that remain in process.

7           Commissioners, within this material you will  
8 notice the largest single category violations are  
9 documented within the Retama meet in the category of  
10 trainer infractions. These infractions represent issues  
11 such as entering ineligible horses, not presenting the  
12 horse in the paddock or late arrival in the paddock and  
13 the inappropriate naming of the rider at entry. Processed  
14 to completion thus far within these meets were a total of  
15 five animal medication violations. A breakdown of the  
16 specific drugs and drug types can be found in the  
17 enforcement chart on page 13.

18           I'd be happy to answer any questions.

19           CHAIRMAN STEEN: Commissioners, any questions?

20           (No response.)

21           CHAIRMAN STEEN: Thank you, Jim.

22           Next is agenda item III.B. Discussion and  
23 possible action on a legislative housekeeping proposal to  
24 the 86th Texas Legislature.

25           Devon, will you please present the item?

1 MS. BIJANSKY: Yes, sir.

2 Commissioners, it's common before a legislative  
3 session for agencies to put together a list of legislative  
4 housekeeping items. These are generally non-controversial  
5 items that can just make them operate a little more  
6 smoothly. There are certainly bigger things that we  
7 talked about that would be nice if they happened but that  
8 aren't appropriate for a housekeeping proposal. I'll run  
9 through them now; they're on page 15 of your materials.

10 The first item is the most critical. The FBI  
11 recently began an audit of their background check process  
12 as it relates to the Racing Commission and racing license  
13 holders and applicants. The main thing they found was  
14 that the occupational license types that they do  
15 background checks on for us are not listed in the Racing  
16 Act, they're in the rules but not actually in the Act.

17 For reasons I can't say I entirely understand,  
18 they want to see them in the Act, they want the  
19 legislature to have decided that these are the license  
20 types that are appropriate to be background checked.  
21 They've put their audit on hold for us until the end of  
22 the next legislative session, but if that change is not  
23 made, they've indicated that they will stop doing these  
24 background checks for us.

25 The second item also relates to criminal

1 history checks. It's not as critical but it would  
2 streamline our processes and would also save licensees  
3 some money. The Act currently requires licensees to  
4 submit their fingerprints and a fingerprinting fee every  
5 time they apply for or renew a license. This dates back  
6 to before DPS had an electronic database, when people had  
7 to actually submit their fingerprints in ink, and they  
8 would be processed and then, I guess, discarded.

9 Now that information is stored and DPS notifies  
10 us whenever anything pops up on any of our licensees so we  
11 don't have to wait until renewal time to learn of issues.

12 So this change would allow us to collect fingerprints and  
13 the fee one time per licensee and then not have to do that  
14 for subsequent applications or renewals.

15 The next item, number 3, is probably the second  
16 most important on this list. Currently when we have a  
17 drug-positive case involving a prohibited substance, we  
18 have to prove that the substance was reasonably capable of  
19 influencing or affecting the outcome of a race, in  
20 addition to proving that it's just not allowed under our  
21 rules. That's because of the definition of prohibited  
22 substance in the Racing Act which has those two parts.

23 In the past this requirement has caused  
24 significant challenges in enforcement cases, as we've had  
25 trouble both finding expert witnesses who would be willing

1 to testify on our behalf, and then once we find someone,  
2 there's the issue of payment as well. Changing the  
3 definition of prohibited substance to be simply a drug or  
4 substance that's not permitted would alleviate that burden  
5 on the agency.

6 The fourth item, currently the Racing Act  
7 requires that the Commission meet at least six times per  
8 year. You can meet more times but you can't meet only  
9 five times. Other agencies' enabling statutes may say  
10 four, five, six. This change would simply give you the  
11 flexibility to only meet five times in a given year if you  
12 didn't need the sixth meeting. You'd be able to stretch  
13 the meeting schedule out two more weeks per meeting, which  
14 would also buy us a lot more flexibility in terms of  
15 scheduling Commission meetings, committee meetings, and  
16 then have enough to get feedback on rules that have been  
17 posted for 30 days, because it actually takes about seven  
18 weeks to get that 30 days worth of public comment. So  
19 this change would, I think, alleviate the scheduling  
20 stress, and of course, would still give you the  
21 opportunity to meet six times or more if that were  
22 necessary.

23 Item 5 would allow the agency to cooperate with  
24 other states' racing commissions regarding taking samples  
25 for drug testing. From time to time another state may

1 want us to collect a sample from a race animal in Texas,  
2 with the agreement of the owner or trainer, but we can't  
3 because our authority only extends to taking samples for  
4 testing that we are doing.

5 This is common when a horse is on the vet's  
6 list in another state, there's some sort of issue there,  
7 and the trainer wants to get the horse off the other  
8 state's vet's list so it can race here but we aren't  
9 currently able to facilitate that.

10 And likewise, sometimes we might need a sample  
11 from a race animal in another state but if we aren't able  
12 to help them, they may not be willing to help us. So this  
13 change would fill that gap and would also ensure that the  
14 statute allows the same kind of cooperation for out of  
15 competition testing down the road.

16 The last item would allow us to ask SOAH to  
17 award our costs of prosecuting a case. In recent years  
18 cases have been increasingly complex and require  
19 increasingly more agency resources. This authority is  
20 common at other agencies, and it would be very helpful for  
21 us in the face of an increasingly oppressive caseload.

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

24 CHAIRMAN STEEN: Thank you, Devon.

25 Commissioners, are there any questions or

1 discussion on this item?

2 COMMISSIONER MACH: What happens if they do not  
3 approve the FBI background check change to statute? I  
4 mean, the FBI will not do these?

5 MS. BIJANSKY: From what they've said, they  
6 will not. I hope we don't find out for sure, but that's  
7 what they've communicated to us.

8 COMMISSIONER MACH: But what is the  
9 alternative, because I think some members will ask that  
10 question.

11 MS. BIJANSKY: What is the alternative?

12 COMMISSIONER MACH: The alternative if the FBI  
13 doesn't do the investigation, what is the Commission's --

14 MS. BIJANSKY: Then we would simply do a DPS, I  
15 think, a statewide background check is what it would  
16 amount to.

17 COMMISSIONER KLEINSCHMIDT: We've recently at  
18 TDA gone to a third-party service that's saved us a lot of  
19 money. We used to run through DPS too. We still do some  
20 through DPS, but it's roughly a sixth of what it used to  
21 be. And the third-party service has a lot of automated  
22 functions such as automatic notice if you've got someone  
23 who's got a background that it will flag them for future  
24 notices. I'll talk to you about that sometime.

25 MS. BIJANSKY: Thank you.

1 CHAIRMAN STEEN: That was a DPS background  
2 check?

3 COMMISSIONER KLEINSCHMIDT: We used DPS  
4 exclusively years ago, and it's cost us about \$35,000 a  
5 year, and our present service is costing us about maybe 7-  
6 or \$8,000 a year, and it has a lot more automation to the  
7 feature.

8 CHAIRMAN STEEN: And what's the cost to the  
9 agency of the FBI checks at this point?

10 MS. BIJANSKY: I don't know the answer to that.  
11 It's my understanding that licensees cover the cost. Is  
12 that not correct?

13 COMMISSIONER KLEINSCHMIDT: We were doing about  
14 35,000 licensees a year, something like that.

15 COMMISSIONER HICKS: How long have you used the  
16 new company?

17 COMMISSIONER KLEINSCHMIDT: Two years now.  
18 It's been well vetted.

19 COMMISSIONER HICKS: Interesting.

20 MS. BIJANSKY: I believe we would need  
21 different changes to the Racing Act if we were to pursue  
22 that, because I think we are currently bound to go through  
23 DPS.

24 COMMISSIONER KLEINSCHMIDT: They still want the  
25 authorization. Wherever you get it, they still want the

1 authorization.

2 COMMISSIONER MACH: And on the FBI background  
3 checks do you deal directly with the FBI or are you going  
4 through DPS?

5 MS. BIJANSKY: I believe it's entirely through  
6 DPS. Is that correct, Jim?

7 CHAIRMAN STEEN: Any further questions or  
8 discussion?

9 COMMISSIONER EDERER: I have a question, but  
10 I'm backing up on you a little bit. Back to general  
11 business -- well, we're in general business, but to Gerry,  
12 I've got a question for Gerry Dube. Is it all right if I  
13 go ahead now?

14 CHAIRMAN STEEN: Do you want to complete this  
15 item and then move back to that item?

16 COMMISSIONER EDERER: Yes, sir.

17 COMMISSIONER MACH: Do we need a motion to  
18 approve that?

19 CHAIRMAN STEEN: Yes. We need a motion to  
20 approve the legislative proposal to the 86th Texas  
21 Legislature.

22 COMMISSIONER MACH: I'll make that motion.

23 CHAIRMAN STEEN: Motion made by Commissioner  
24 Mach.

25 COMMISSIONER HICKS: I'll second it.



1 CHAIRMAN STEEN: Seconded by Commissioner  
2 Hicks.

3 All in favor please signify by saying aye.  
4 (A chorus of ayes.)

5 CHAIRMAN STEEN: Any opposed?  
6 (No response.)

7 CHAIRMAN STEEN: That motion carries.  
8 Back to you.

9 COMMISSIONER EDERER: Thank you.  
10 I want to back up a little, I'm a little slow  
11 on the uptake this morning. The budget, am I reading this  
12 correctly that we came out in good shape, we're in the  
13 black?

14 MR. DUBE: Just a little bit, yeah, a little  
15 over the top in terms of revenue, but you've got to  
16 remember a lot of the revenue at the end of the day does  
17 go into several different types of expenses, but yeah,  
18 we're a little bit over the top.

19 COMMISSIONER EDERER: So the activity taken by  
20 the staff over the past year has saved us quite a bit of  
21 money.

22 MR. DUBE: Yes. We have a substantial savings.  
23 I think we've reported on that a few times, and I think  
24 over the last couple of years there have been over  
25 \$300,000 in savings alone. So this year's efforts, we've

1 reduced, I think, two FTEs on top of that and reduced  
2 expenses as well.

3 COMMISSIONER EDERER: Thank you. Appreciate  
4 that. The staff should be commended for the work they've  
5 done.

6 CHAIRMAN STEEN: That's a good lead-in for the  
7 next item.

8 COMMISSIONER EDERER: Yes, sir.

9 CHAIRMAN STEEN: The next item is agenda item  
10 IV.A. Discussion and possible action regarding a third-  
11 party economy, efficiency and effectiveness audit review  
12 or similar process. I have a comment card from Tommy  
13 Azopardi wishing to testify on the matter.

14 Tommy, would you please join us?

15 MR. AZOPARDI: Good morning, Mr. Chairman,  
16 commissioners. Commissioner McNabb, welcome back to the  
17 arena. We appreciate you volunteering again for active  
18 duty. It's good to see you again.

19 COMMISSIONER McNABB: Thank you.

20 MR. AZOPARDI: With regard to the efficiency  
21 and effectiveness review -- and today I'm speaking with  
22 permission from the other license holders -- we think the  
23 timing, we've missed an opportunity as far as the timing  
24 of this. We appreciate the cuts that staff has made, we  
25 encourage them to continue to look for cost savings, but

1 we think that, as I said at the last meeting, the bulk of  
2 the savings moving forward will probably require some  
3 legislative restructuring of certain expenses.

4 And while we were supportive of this study  
5 because we wanted to find additional cost savings and we  
6 were hopeful that maybe it would give us the basis for a  
7 legislative initiative to go to the members of the  
8 legislature and try to get change, we're concerned now  
9 with the timing of this. With the time that it would take  
10 for the RFP to be posted and then bids awarded and then  
11 the work to be done that we don't know that we'd get it  
12 back in time to mount a legislative campaign.

13 So at this point the licensees would humbly ask  
14 that we table this issue and see if we can get legislative  
15 initiative on our own to get some changes made, and if  
16 not, then we will be back before you to ask for help to  
17 maybe get that study commissioned at that point, but we  
18 don't think the window would give us sufficient time to  
19 use the study, and we don't want to spend approximately  
20 \$100,000 or more for a study that would just sit on the  
21 desk with some very good recommendations, but  
22 realistically we think that the bulk of the savings will  
23 come from legislative change.

24 I'm happy to answer any questions that you may  
25 have.

1 CHAIRMAN STEEN: Any questions?

2 (No response.)

3 CHAIRMAN STEEN: I guess my comment on this  
4 would be we undertook and we do want to commend staff for  
5 the actions that they've taken so far and the savings  
6 they've been able to find. Obviously, this came about as  
7 a request from the tracks originally, this is something  
8 that would be funded by the tracks themselves. If the  
9 tracks don't wish to proceed at this time, given that they  
10 would be the funding source, I'm not sure that we have  
11 another option but to listen to that request would be my  
12 view on the matter.

13 COMMISSIONER EDERER: Do we need a motion to  
14 table?

15 CHAIRMAN STEEN: Devon, what would be -- if we  
16 were going to put this on hold, I would say I don't want  
17 to lose the work that we've done to date to set up the  
18 RFP, if we wanted to take it up again next year or some  
19 other time --

20 MS. BIJANSKY: Yes, sir.

21 CHAIRMAN STEEN: -- I'd like to have a motion  
22 that would allow us to kind of pick up where we left off  
23 if we decided to do that.

24 MS. BIJANSKY: Sure. You could make a motion  
25 to put the matter on hold until further notice, further

1 instruction.

2 COMMISSIONER EDERER: I make a motion to put it  
3 on hold until further notice.

4 CHAIRMAN STEEN: Motion made by Commissioner  
5 Ederer.

6 COMMISSIONER McNABB: I second.

7 CHAIRMAN STEEN: Seconded by Commissioner  
8 McNabb.

9 Any further discussion?

10 COMMISSIONER MACH: Are all the tracks  
11 represented in the room today, or are you the only person  
12 here?

13 MR. AZOPARDI: I know there's a representative  
14 from the Sam Houston Race Park group of licenses here.

15 COMMISSIONER MACH: My only concern is that  
16 we're taking action based on what we're being told, not  
17 what they have communicated to us in writing that they  
18 would like to see happen.

19 CHAIRMAN STEEN: Sure.

20 COMMISSIONER MACH: And so I like the idea of  
21 saying we're going on hold, and if somebody does have an  
22 issue with it, they can come to the next Commission  
23 meeting and voice that concern.

24 CHAIRMAN STEEN: And, Tommy, just to confirm,  
25 you are speaking with permission of all the license

1 holders right now?

2 MR. AZOPARDI: Yes, sir, reconfirmed as of nine  
3 o'clock this morning.

4 COMMISSIONER MACH: I'd just like to get it in  
5 writing.

6 CHAIRMAN STEEN: I agree.

7 MR. AZOPARDI: And we are happy to submit a  
8 letter, Commissioner Mach, that would follow this  
9 Commission meeting if that's preferred.

10 COMMISSIONER MACH: I think it's very  
11 important.

12 CHAIRMAN STEEN: I think that would be  
13 appropriate.

14 MR. AZOPARDI: Absolutely.

15 CHAIRMAN STEEN: Any further discussion?

16 (No response.)

17 CHAIRMAN STEEN: Okay, then we'll take up. All  
18 in favor signify by saying aye.

19 (A chorus of ayes.)

20 CHAIRMAN STEEN: Any opposed?

21 (No response.)

22 CHAIRMAN STEEN: Motion carries. Thank you.

23 MR. AZOPARDI: Thank you, commissioners.

24 CHAIRMAN STEEN: The next item is agenda item  
25 IV.B. Discussion and possible action to adopt amendments

1 to 16 TAC Section 309.13.

2 Devon, would you mind presenting the item?

3 MS. BIJANSKY: Yes, sir.

4 This would adopt the rule, the change to the  
5 rule that you adopted two meetings ago that authorizes the  
6 agency to charge the fee for -- originally it said for the  
7 audit and now it says audit or review. If you choose to  
8 go forward and adopt today, then the funding authority  
9 would be in place if at some point in the future you  
10 decided to go forward. You wouldn't have to do that  
11 because it is being put on hold, but if you don't, the  
12 proposal is withdrawn by operation of law after 180 days,  
13 so it would start another two meeting process. So going  
14 forward and adopting today would ensure that you could  
15 pick it up in a single meeting down the road if you wanted  
16 to.

17 CHAIRMAN STEEN: And adopting today doesn't  
18 prevent us from putting everything on hold that we need to  
19 put on hold?

20 MS. BIJANSKY: That's correct.

21 COMMISSIONER MACH: I see no reason to not tee  
22 it up. I'll make a motion to approve.

23 CHAIRMAN STEEN: Motion made by Commissioner  
24 Mach.

25 COMMISSIONER MARTIN: Second.

1 CHAIRMAN STEEN: Seconded by Commissioner  
2 Martin.

3 Any further discussion?

4 (No response.)

5 CHAIRMAN STEEN: All in favor signify by saying  
6 aye.

7 (A chorus of ayes.)

8 CHAIRMAN STEEN: Any opposed?

9 (No response.)

10 CHAIRMAN STEEN: The motion carries.

11 The next item is agenda item V.A. Discussion  
12 and possible action to withdraw and repropose amendments  
13 to 16 TAC Section 313.405, Whips and Other Equipment.

14 Devon, will you present this item, please?

15 MS. BIJANSKY: Yes, sir.

16 Commissioners, this item is on page 19 of your  
17 materials. You actually proposed this rule in June but  
18 we've identified a technical issue with the posting and so  
19 we're now recommending withdrawing and reproposing it with  
20 that correction.

21 As for the rule itself, it changes the word  
22 "whip" to "crop" and it changes the specifications for an  
23 acceptable crop to one that's intended to be gentler on  
24 the horse. The Jockeys' Guild requested this change  
25 earlier this year and it is based on an ARCI model rule



1 that many other states have already adopted.

2 CHAIRMAN STEEN: Commissioners, any questions?

3 (No response.)

4 CHAIRMAN STEEN: Anyone signed up for public  
5 comment?

6 MS. COOK: No, sir.

7 CHAIRMAN STEEN: If not, I'll entertain a  
8 motion to withdraw and repropose the amendments to 16 TAC  
9 Section 313.405.

10 COMMISSIONER HICKS: I'll make the motion.

11 CHAIRMAN STEEN: Motion made by Commissioner  
12 Hicks.

13 COMMISSIONER EDERER: Second.

14 CHAIRMAN STEEN: Seconded by Commissioner  
15 Ederer.

16 Any further discussion?

17 (No response.)

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

20 (A chorus of ayes.)

21 CHAIRMAN STEEN: Any opposed?

22 (No response.)

23 CHAIRMAN STEEN: That motion carries.

24 The next item is agenda item V.B. Discussion  
25 and possible action to propose amendments to 16 TAC

1 Section 321.320, Super Hi-Five.

2 Devon, will you present this item please?

3 MS. BIJANSKY: Yes, sir.

4 This item starts on page 22 of your materials.

5 These amendments were requested by Sam Houston Race Park  
6 to modify the requirements for the single winning ticket  
7 option that I believe was implemented last year to require  
8 instead a single winning wager. I believe a  
9 representative of Sam Houston is here and can speak to the  
10 details of this change.

11 MR. HOPF: Good morning, commissioners. Frank  
12 Hopf, senior racing operations director at Sam Houston.  
13 Again, thank you for letting me talk about this rule  
14 change to what was discussed last year.

15 After speaking with staff and our tote company,  
16 the wager to be a unique payout would have to be  
17 considered a wager, not necessarily a ticket because the  
18 betting ticket could actually have multiple -- could have  
19 the same bet twice on there if there's a scratch which  
20 would cause it to be not a unique wager, so we would  
21 probably have to pay out -- a customer could technically  
22 have the same bet on the same ticket and it would not be a  
23 unique wager so they would not get the payout as proposed  
24 as more of a jackpot payout. So this change in the  
25 verbiage will allow a tote company to pay out as a single

1 winner option.

2 Hopefully I explained that.

3 CHAIRMAN STEEN: Any questions, commissioners?

4 COMMISSIONER MACH: Are you saying the same  
5 person could have the same wager twice on a ticket?

6 MR. HOPF: Yeah. So if there was a scratch in  
7 the race in this particular situation that the customer  
8 could actually have two winning tickets even though it was  
9 on one -- it would be on the same ticket so it would be  
10 deemed as two winning tickets so it wouldn't be one  
11 winning ticket.

12 COMMISSIONER MACH: But wouldn't that just be  
13 redundant? I mean, it would be the same individual that  
14 won the wager. It's not as if two other people won the  
15 same wager in the example you gave, it's the same person  
16 had that same wager twice on their ticket. Are you saying  
17 both wagers are null or are you saying one of those wagers  
18 is null?

19 MR. HOPF: It would be that the -- so the way  
20 the original rule was written was it would be one winning  
21 ticket. If a customer had a scratch and it became two  
22 winning winners on that particular ticket, he would now  
23 have two winning -- there would be two winning tickets out  
24 there from the tote system's perspective, so they would  
25 not allow the unique payout, so there would be actually

1 two winning tickets out there instead of just one.

2 Curley, I hope I explained that the best I can.

3 COMMISSIONER MACH: I just want to make sure  
4 we're not canceling somebody out just because they may  
5 have wagered for the same thing twice.

6 MR. HOPF: No. After speaking with staff and  
7 the tote company, this will allow -- by changing from  
8 ticket to wager, this will allow that one person not to be  
9 penalized because there was a scratch or something.

10 COMMISSIONER MACH: Okay.

11 CHAIRMAN STEEN: Any further questions?

12 (No response.)

13 CHAIRMAN STEEN: If not, I'll entertain a  
14 motion to propose the amendments to 16 TAC Section  
15 321.320.

16 COMMISSIONER MACH: I'll make the motion.

17 CHAIRMAN STEEN: Motion made by Commissioner  
18 Mach.

19 COMMISSIONER MARTIN: I'll second.

20 CHAIRMAN STEEN: Seconded by Commissioner  
21 Martin.

22 Let's take this up for a vote. All in favor  
23 please signify by saying aye.

24 (A chorus of ayes.)

25 CHAIRMAN STEEN: Any opposed?

1 (No response.)

2 CHAIRMAN STEEN: That motion carries. Thank  
3 you.

4 MR. HOPF: Thank you.

5 CHAIRMAN STEEN: The next item is agenda item  
6 V.C.1. Discussion and possible action to propose the  
7 repeal of 16 TAC Section 311.52, Spouse's License.

8 Devon, will you please present the item?

9 MS. BIJANSKY: Yes, sir.

10 This item is on page 25 of your materials.  
11 This change also came out of the FBI review that we  
12 discussed earlier. In their review they concluded that  
13 the spouse's license doesn't serve a legitimate regulatory  
14 purpose, so they've said that they're going to stop  
15 performing background checks for spouse's license  
16 applicants, regardless of whether it was put into the  
17 statute.

18 For some background information on the spouse's  
19 license, all it is is a license that allows a spouse of a  
20 horse owner or a dog owner to access the back side of the  
21 track. That spouse can always access the back side as a  
22 guest of their owner spouse, so it really isn't necessary.

23 There are currently, I believe, 16 spouse's licenses out  
24 there, so if you were to vote to propose and then  
25 ultimately follow through on the repeal of this rule, the

1 existing licenses would continue for whatever term they  
2 have left but they wouldn't be able to be renewed.

3 CHAIRMAN STEEN: Commissioners, any questions  
4 on this item?

5 COMMISSIONER HICKS: Is there a charge for  
6 this, Devon, for the spouse's license?

7 MS. BIJANSKY: There is. I don't know, I'm  
8 guessing it's \$25, \$20? Twenty dollars.

9 CHAIRMAN STEEN: If no further questions or  
10 discussion, I'll entertain a motion to propose the repeal  
11 of 16 TAC Section 311.52.

12 COMMISSIONER KLEINSCHMIDT: I move to propose  
13 the repeal of 16 TAC Section 311.52, the Spouse's License.

14 CHAIRMAN STEEN: Motion made by Commissioner  
15 Kleinschmidt.

16 COMMISSIONER EDERER: Second.

17 CHAIRMAN STEEN: Seconded by Commissioner  
18 Ederer.

19 All in favor please signify by saying aye.

20 (A chorus of ayes.)

21 CHAIRMAN STEEN: Any opposed?

22 (No response.)

23 CHAIRMAN STEEN: The motion carries. Thank  
24 you.

25 The next items are agenda item V.C.2. and 3.

1 Discussion and possible action to propose the repeal of 16  
2 TAC Section 321.41 and .42, Cashing Outstanding Tickets  
3 and Cashing Outstanding Vouchers.

4 Devon, will you please present this item.

5 MS. BIJANSKY: Yes, sir.

6 This item is on page 26 of your materials and  
7 it was requested by Lone Star Park. They're requesting  
8 that these two rules be repealed because they're no longer  
9 necessary now that the agency does not receive the outs  
10 money. The only purpose of separate windows was so that  
11 those tickets would be kept separate so that they could be  
12 counted up and we would know how much revenue that we were  
13 due. I believe a representative of Lone Star Park is here  
14 and can speak to this item.

15 MS. TYLER: Good morning, commissioners.

16 CHAIRMAN STEEN: Good morning.

17 MS. TYLER: I'm Melinda Tyler, director of  
18 mutuels from Lone Star Park.

19 The two rules are pretty much obsolete at this  
20 time. It puts an unnecessary burden on the association  
21 when designating dedicated terminal lanes to cash the  
22 outstanding wagers and vouchers. And it puts a burden on  
23 our guests older than 21 days. They have to find the  
24 terminal that we have available. At this time we have six  
25 terminals that we have to man with a clerk and just, I

1 guess, we just feel like it needs to be taken away.

2 We do report with our accounting department on  
3 our daily deposit the amount of cashed and added outs on a  
4 daily basis, and the past purpose for the rule was for the  
5 State Auditor to monitor the 21 days outs and to verify  
6 that there were none manually cashed. They're unique  
7 numbers. We do not cash winning tickets or vouchers  
8 without the actual ticket. If anything is manually  
9 cashed, obviously we have logs and we can research that.

10 The ARCI model rule does not address how  
11 outstanding outs are to be handled, only the definition of  
12 what they are, which is the same definition, similar,  
13 provided by the Texas Racing Act.

14 Does anyone have any questions?

15 CHAIRMAN STEEN: Commissioners, any questions?

16 (No response.)

17 CHAIRMAN STEEN: Thank you.

18 MS. TYLER: Thank you.

19 CHAIRMAN STEEN: If no questions or further  
20 discussion, I'll entertain a motion to propose the repeal  
21 of 16 TAC Section 321.41 and .42.

22 COMMISSIONER MARTIN: So moved.

23 COMMISSIONER MACH: Second.

24 CHAIRMAN STEEN: Motion made by Commissioner  
25 Martin, seconded by Commissioner Mach.



1 Any further discussion?

2 (No response.)

3 CHAIRMAN STEEN: All in favor please signify by  
4 saying aye.

5 (A chorus of ayes.)

6 CHAIRMAN STEEN: Any opposed?

7 (No response.)

8 CHAIRMAN STEEN: The motion carries. Thank  
9 you.

10 And now on to VI.A.1. ownership and management  
11 review of Gillespie County Fair's active racetrack license  
12 under 16 TAC Section 309.53.

13 Devon, will you please lay out the item?

14 MS. BIJANSKY: Yes, sir. And we can handle  
15 both of these together.

16 CHAIRMAN STEEN: Okay.

17 MS. BIJANSKY: Section 6.06 of Section K of the  
18 Racing Act requires that the Commission review the  
19 ownership and management of active racetrack licenses  
20 every five years, and so we've conducted that process for  
21 Gillespie County Fair and Gulf Greyhound Park, which were  
22 last reviewed in 2013, and presented for you that's in  
23 your materials beginning on page 28.

24 We reviewed the association's management,  
25 concession and tote contracts, their security plans,

1 inspection reports for the last five years and the results  
2 of inspections or investigations. We found nothing of  
3 concern for either Gillespie or Gulf in any of those  
4 areas. Each track has had a number of inspection issues  
5 over the last five years, but each time they've been  
6 timely resolved by the association.

7 We also look into the backgrounds of various  
8 people involved with each association at a certain level,  
9 but as a result of the FBI process we discussed earlier,  
10 we get information on each of them whenever a potential  
11 issue arises and we've identified no information of  
12 concern about any of them.

13 So not having found anything problematic in our  
14 review, the staff would recommend that you schedule the  
15 next ownership and management review for Gillespie and  
16 Gulf for 2023.

17 CHAIRMAN STEEN: Commissioners, do you have any  
18 questions?

19 COMMISSIONER MACH: I make a motion that we  
20 schedule the next review for Gillespie County Fair and  
21 Gulf Greyhound Park for calendar year 2023.

22 COMMISSIONER McNABB: Second.

23 CHAIRMAN STEEN: Motion made by Commissioner  
24 Mach, seconded by Commissioner McNabb.

25 Any further discussion?

1 (No response.)

2 CHAIRMAN STEEN: We'll take this up for a vote.

3 All in favor please signify by saying aye.

4 (A chorus of ayes.)

5 CHAIRMAN STEEN: Any opposed?

6 (No response.)

7 CHAIRMAN STEEN: That motion carries. Thank  
8 you.

9 Moving on to VI.B.1. action on applications by  
10 Manor Downs for license renewal under Commission Rule  
11 Section 309.52.

12 Devon, will you please lay out the item?

13 MS. BIJANSKY: Yes, sir.

14 Section 6.0602 of the Act requires the  
15 Commission to conduct annual reviews of the inactive  
16 racetrack licenses. At the conclusion of the review you  
17 can either renew a license as inactive, you can  
18 redesignate it as active, or you can refer it to the State  
19 Office of Administrative Hearings for non-renewal  
20 proceedings.

21 On page 37 of your materials there's a memo  
22 that describes the criteria used in deciding whether to  
23 renew a license and summarizes the applications that we've  
24 received. Of particular note is that two of the licenses  
25 do have grounds for non-renewal. Specifically, both Manor

1 Downs and Laredo Downs do not currently have either the  
2 ownership of or a leasehold interest in the property where  
3 the license is designated to be.

4 Under the rules that is a potential grounds for  
5 non-renewal of the license. But under the rules, the  
6 presence of a ground for non-renewal does not require a  
7 referral for non-renewal proceedings. It's an option if  
8 you believe it's not in the best interest of the industry  
9 or the public or if you believe that an association has  
10 failed to make good faith efforts to conduct live racing.

11 Now I'll turn it over to each racetrack to  
12 address their applications and the reasons their licenses  
13 should be renewed.

14 CHAIRMAN STEEN: I'll call up Dwight Berube on  
15 behalf of Manor Downs.

16 MR. BERUBE: Good morning, Mr. Chairman,  
17 commissioners and staff. My name is Dwight Berube. I  
18 represent the Manor Downs license. Manor is one of the  
19 three licenses that's held by PM Texas, the other two  
20 being Sam Houston Race Park and Valley Race Park.

21 Manor Downs is a license that we acquired two  
22 years ago. At that time we paid all of the past due fees  
23 to bring that license back into good standing with the  
24 Commission, and since then we've paid the annual fees in a  
25 timely fashion.

1           In addition to paying the fees, we continue to  
2 make good faith efforts to bring live racing back to the  
3 Manor license. We've engaged a Travis County based  
4 consultant and we've discussed a possible partnership with  
5 the Rodeo Austin as a location, and we've even looked at  
6 temporary simulcasting facilities in Travis County.  
7 There's really nothing else for me to report at this time.

8           We did have an option to purchase the property  
9 Manor Downs license used to use in Manor, but because  
10 we're looking at other opportunities besides Manor, we did  
11 not renew that option.

12           CHAIRMAN STEEN: Commissioners, any questions?

13           (No response.)

14           CHAIRMAN STEEN: Sir, what would be the next  
15 step as far as pursuing different options?

16           MR. BERUBE: Well, we're hopeful that there's  
17 resolution to the Commission funding and some clarity to  
18 the fees that each license would have to pay so that our  
19 board could make an educated decision on moving forward  
20 and understand the investment involved to move forward.

21           CHAIRMAN STEEN: Any further questions or  
22 discussion?

23           (No response.)

24           MR. BERUBE: Thank you.

25           CHAIRMAN STEEN: Do I have a motion? Devon,

1 can you lay out what the motion would be?

2 MS. BIJANSKY: Oh, yes, sir. The motion would  
3 be to approve the renewals of Manor Downs and Laredo  
4 Downs -- at this point it would be Manor Downs. You could  
5 take them all together if you'd like.

6 CHAIRMAN STEEN: Okay. Let's go through them,  
7 and then we'll take them all up at the end. We'll move on  
8 to Laredo Downs's application.

9 COMMISSIONER MACH: Are there any other  
10 comments? I mean, are we going to take up comments from  
11 others? Because I know it's been an issue about these  
12 inactive licenses versus those who are actually running  
13 operations and their thoughts on it. Are we going to hear  
14 public comment on that?

15 CHAIRMAN STEEN: They are welcome to comment.  
16 Tommy Azopardi on behalf of Laredo Downs, as  
17 well as Valle.

18 MR. AZOPARDI: Please. Yes, sir, I'll speak  
19 for the license holders for both of those racetracks.

20 The application pretty much speaks for itself.  
21 Nothing much has materially changed with the exception of  
22 Laredo. Our property in Laredo, as is pointed out in the  
23 staff's review, has not had a piece of land for a while  
24 and we have a remedy for that, we have a piece of land.

25 We submitted a letter to staff, I believe a

1 month ago, asking for some directions on what the staff  
2 would like to see, what the Commission would like to see  
3 to accompany that application. The site is within one  
4 mile from the site that was previously held by the other  
5 Laredo license that has since been surrendered, so it begs  
6 the question on our part, before we spend a lot of money  
7 on studies, that we're already in the same area regarding  
8 traffic studies, impact to the community, et cetera.

9 With no material change in that area of Laredo,  
10 we would like to know if we need to submit all that again  
11 or just exactly what type of materials would need to  
12 accompany the application. We've not heard back yet on  
13 that, but we are ready to move forward on that as soon as  
14 we can determine what the Commission would like to see.

15 CHAIRMAN STEEN: Any questions, commissioners?

16 (No response.)

17 CHAIRMAN STEEN: When do we expect to get them  
18 some feedback?

19 MS. BIJANSKY: Well, I didn't know that they  
20 were waiting on us. We had a meeting over the summer  
21 where we discussed particularly the issue of the traffic  
22 study. The rules don't allow us to overlook requirements  
23 or to approve contingent on a traffic study being done at  
24 the point of -- as construction gets closer, which I think  
25 was their proposal. The letter that we received sort of

1 reiterated that we look forward to working with you on  
2 this but didn't request any particular information or  
3 followup, so as far as we're concerned, I think the ball  
4 is still in their court.

5 CHAIRMAN STEEN: Okay. Will you get with staff  
6 and keep the ball rolling?

7 MR. AZOPARDI: Absolutely.

8 CHAIRMAN STEEN: Any further questions,  
9 discussion?

10 (No response.)

11 CHAIRMAN STEEN: Any other public comment?

12 MS. COOK: No, sir.

13 CHAIRMAN STEEN: Thanks, Tommy.

14 MR. AZOPARDI: Thank you, commissioners.

15 CHAIRMAN STEEN: Then just to confirm, Devon,  
16 the Valle de Los Tesoros is the one with the land?

17 MS. BIJANSKY: That's correct.

18 CHAIRMAN STEEN: And the other two don't  
19 currently have land?

20 MS. BIJANSKY: Yes, sir.

21 CHAIRMAN STEEN: Any further discussion or  
22 action?

23 COMMISSIONER MACH: Mr. Chairman, given that  
24 there hasn't been any comment to the contrary, I would  
25 move approval of the renewal of these licenses under



1 section B. of Section VI. Proceedings on racetracks.

2 COMMISSIONER EDERER: Second.

3 CHAIRMAN STEEN: Motion made by Commissioner  
4 Mach, seconded by Commissioner Ederer.

5 Any further discussion?

6 (No response.)

7 CHAIRMAN STEEN: If not, we'll take this up for  
8 a vote. All in favor please signify by saying aye.

9 (A chorus of ayes.)

10 CHAIRMAN STEEN: Any opposed?

11 (No response.)

12 CHAIRMAN STEEN: That motion carries.

13 The next item on the agenda is discussion and  
14 possible action on live race dates for greyhound tracks  
15 for the period beginning December 1, 2018 and ending  
16 August 31, 2020.

17 Ricky Walker, chief steward, will present the  
18 item.

19 MR. WALKER: Good morning, commissioners. I'm  
20 Ricky Walker, chief steward for the Racing Commission.

21 Gulf Coast Racing notified the Commission in  
22 late July that it was not prepared to run its previously  
23 granted race dates starting December 26, '18 through  
24 February 23, 2019. At the August 14, 2018 Commission  
25 meeting, the Commission opened a new application period

1 for greyhound race dates for the period December 26, '18  
2 through February 23, '19. The application for these race  
3 dates were opened on August 16 and ended on September 14,  
4 2018.

5 On pages 43 through 49, Gulf Greyhound Park has  
6 requested to run a total of four race dates beginning  
7 December 26, '18 through December 30, '18, and 32 race  
8 dates in 2019 beginning December 26 through 2/23/2019. On  
9 pages 50 and 51 there are letters of support from the  
10 Texas Greyhound Association and Gulf Coast Racing. On  
11 pages 52 and 53 are the greyhound race date calendars for  
12 2018 and 2019 which show already granted and newly  
13 requested race dates.

14 I will be glad to answer any questions if you  
15 have any.

16 CHAIRMAN STEEN: Commissioners, any questions?

17 (No response.)

18 CHAIRMAN STEEN: Thank you, Ricky.

19 Sally Briggs wishes to testify for the item on  
20 behalf of Gulf Greyhound Park and Gulf Coast Racing.

21 MS. BRIGGS: Good morning, commissioners. I'm  
22 Sally Briggs, general manager at Gulf Cost Racing and  
23 operations manager at Gulf Greyhound -- sorry -- general  
24 manager at Gulf Greyhound and operations manager at Gulf  
25 Coast Racing.

1                   And obviously, we do not want to see live  
2 racing in Texas go away and not have live racing  
3 available, so that's why we very readily volunteered to  
4 run another meet for this period of time.

5                   If you have any questions, I'll be happy to  
6 answer them.

7                   CHAIRMAN STEEN: Commissioners, any questions?  
8                   (No response.)

9                   CHAIRMAN STEEN: Thank you, Sally.

10                  MS. BRIGGS: Thank you.

11                  CHAIRMAN STEEN: If not, I'll entertain a  
12 motion to approve the requested race dates.

13                  COMMISSIONER HICKS: I'll make the motion.

14                  COMMISSIONER MACH: Second.

15                  CHAIRMAN STEEN: Motion made by Commissioner  
16 Hicks, seconded by Commissioner Mach.

17                  Any further discussion?

18                  (No response.)

19                  CHAIRMAN STEEN: If not, we'll take it up for a  
20 vote. All in favor please signify by saying aye.

21                  (A chorus of ayes.)

22                  CHAIRMAN STEEN: Any opposed?

23                  (No response.)

24                  CHAIRMAN STEEN: The motion carries. Thank  
25 you.

1           The next item is VI.D. allocation of interstate  
2 cross-species purse money under 16 TAC Section 303.102(d)  
3 for the period from February 26, 2018 through February 23,  
4 2019.

5           Curley, will you please present the item?

6           MR. TRAHAN: Good morning again, commissioners.

7           The Texas Racing Act requires horse racetracks  
8 to pay a purse in the amount of 5.5 percent of interstate  
9 cross-species handle to the Texas Greyhound Association  
10 for use at greyhound racetracks in Texas.

11           Under Section 303.102 of the rules, the TGA  
12 must pay to the greyhound racetracks the purse money it  
13 collects pursuant to the Act from Texas horse racetracks  
14 in accordance with an allocation approved by the  
15 Commission. The TGA prepares and submits a proposed  
16 allocation for consideration by the Commission.

17           At the December 20, 2017 Commission meeting,  
18 the Commission voted to approve an allocation of cross-  
19 species funds for the period of February 26, 2018 through  
20 February 23, 2019 to Gulf Coast Racing.

21           Since Gulf Coast Racing will not be running  
22 their previously approved race meet, these funds need to  
23 be reallocated. On pages 56 and 57 of your agenda packet  
24 is a letter from staff to the TGA requesting its proposed  
25 reallocation of the proposed cross-species purse money and

1 a letter from the TGA laying out the paying of these funds  
2 to Gulf Greyhound Park.

3 Based on the approval of the request by Gulf  
4 Greyhound Park for greyhound race dates in the previous  
5 agenda item, TGA proposes for all interstate cross-species  
6 money earned, less allowable expenses, for the period of  
7 February 26, 2018 through February 23, 2019 be reallocated  
8 from Gulf Coast Racing to Gulf Greyhound Park.

9 Staff recommends approval of the reallocation  
10 as proposed by the TGA. I'd be happy to answer any  
11 questions.

12 CHAIRMAN STEEN: Any questions, commissioners?

13 (No response.)

14 CHAIRMAN STEEN: Jean, do we have anyone signed  
15 up for public comment?

16 MS. COOK: No, sir.

17 CHAIRMAN STEEN: If not discussion, I'll  
18 entertain a motion to reallocate the interstate cross-  
19 species purse money for the period February 26, 2018  
20 through February 23, 2019.

21 COMMISSIONER MACH: I'll make that motion.

22 CHAIRMAN STEEN: Motion made by Commissioner  
23 Mach.

24 COMMISSIONER McNABB: Second.

25 CHAIRMAN STEEN: Seconded by Commissioner

1 McNabb.

2 Any further discussion?

3 (No response.).

4 CHAIRMAN STEEN: We'll take this up for a vote.

5 All in favor please signify by saying aye.

6 (A chorus of ayes.)

7 CHAIRMAN STEEN: Any opposed?

8 (No response.)

9 CHAIRMAN STEEN: The motion carries.

10 The next item is VI.E. allocation of cross-  
11 species purse money under 16 TAC Section 303.102(d) for  
12 the period from February 24, 2019 through February 26,  
13 2020.

14 Curley, will you present this item as well?

15 MR. TRAHAN: Commissioners, as with the  
16 previous agenda item, this item is regarding the  
17 interstate cross-species purse earned at the horse  
18 racetracks and paid to the TGA for use at greyhound  
19 racetracks in Texas, however, this item is for the funds  
20 earned for the period of February 24, 2019 through  
21 February 26, 2020.

22 On pages 59 and 60 of your agenda material  
23 you'll find a letter from staff to the TGA requesting its  
24 proposed allocation for this period, along with a response  
25 from the TGA to that request. The TGA is proposing to

1 allocate the funds earned during that period, less  
2 allowable expenses, to Valley Race Park. This proposed  
3 allocation is in line with the race dates previously  
4 approved for Valley Race Park.

5 Staff recommends approval of the TGA's proposed  
6 allocation. I'd be happy to answer any questions.

7 CHAIRMAN STEEN: Any questions, commissioners?  
8 (No response.)

9 CHAIRMAN STEEN: Thank you, Curley.

10 MR. TRAHAN: Thank you.

11 CHAIRMAN STEEN: Devon, what's the proper  
12 motion to make here?

13 MS. BIJANSKY: Motion to allocate the  
14 interstate cross-species purse money for that period to  
15 Valley Race Park.

16 COMMISSIONER MACH: I'll make that motion.

17 CHAIRMAN STEEN: Motion made by Commissioner  
18 Mach.

19 COMMISSIONER HICKS: Second.

20 CHAIRMAN STEEN: Seconded by Commissioner  
21 Hicks.

22 Any further discussion?

23 (No response.)

24 CHAIRMAN STEEN: We'll take it up for a vote.

25 All in favor please signify by saying aye.

1 (A chorus of ayes.)

2 CHAIRMAN STEEN: Any opposed?

3 (No response.)

4 CHAIRMAN STEEN: The motion carries.

5 The next item is VI.F. allocation of funds for  
6 the Texas-bred incentive program under 16 TAC Section  
7 321.505(b).

8 Curley, will you please present this item?

9 MR. TRAHAN: Commissioners, a portion of the  
10 money wagered on simulcast races offered at horse  
11 racetracks is dedicated to the accredited Texas-bred  
12 incentive program.

13 Commission Rule 321.505(b) requires the  
14 Commission to determine the division of funds after  
15 affording each official horse breed organization an  
16 opportunity to present written information addressing the  
17 criteria listed in paragraph 2 of this subsection.

18 Alternatively, the breed organizations may  
19 present to the Commission an agreement in lieu of  
20 providing information. The agreement must meet two  
21 specific requirements: First, the agreement must be  
22 signed by all official breed organizations designated in  
23 the Act that participate in the program; secondly, the  
24 agreement must delineate the percentages by which the  
25 Texas-bred incentive program funds generated from



1 simulcasting ought to be divided among the various breeds  
2 of horses.

3           You will find on pages 66 through 68 of your  
4 meeting material a submitted agreement signed by all the  
5 participating breed registries in accordance with the  
6 rules. I have included on page 64 a summary of the  
7 allocations contained in the agreement.

8           The agreement lists the established percentages  
9 by which the accredited Texas-bred program funds will be  
10 allocated among the various breeds of horses for calendar  
11 year 2019. This agreement maintains the same allocations  
12 that were approved for current year 2018 and have remained  
13 the same since 2008.

14           Since all parties have agreed to the  
15 allocations and all requirements of the rule have been  
16 met, staff recommends approval of the submitted accredited  
17 Texas-bred incentive program breed split agreement for  
18 calendar year 2019. I'll be happy to answer any  
19 questions.

20           CHAIRMAN STEEN: Any questions, commissioners?

21           (No response.)

22           CHAIRMAN STEEN: Thank you, Curley.

23           MR. TRAHAN: Thank you.

24           CHAIRMAN STEEN: If not, I'll entertain a  
25 motion to approve the allocation of funds for the Texas-

1 bred incentive program as proposed in the materials.

2 COMMISSIONER MARTIN: So moved.

3 CHAIRMAN STEEN: Motion made by Commissioner  
4 Martin.

5 COMMISSIONER MACH: Second.

6 CHAIRMAN STEEN: Seconded by Commissioner Mach.

7 Any further discussion?

8 (No response.)

9 CHAIRMAN STEEN: If not, we'll take this up for  
10 a vote. All in favor please signify by saying aye.

11 (A chorus of ayes.)

12 CHAIRMAN STEEN: Any opposed?

13 (No response.)

14 CHAIRMAN STEEN: That motion carries.

15 The next two items we'll take together. VI.G.  
16 is allocation of purses as provided under 16 TAC Section  
17 321.505(a) and VI.H. is distribution of funds in the  
18 escrowed purse account among the various breed of horses  
19 under Commission Rule 321.509.

20 Curley, will you please present this item?

21 MR. TRAHAN: I'd be happy to.

22 Commissioners, as per the Texas-bred incentive  
23 program, a portion of the money wagered on simulcast races  
24 in Texas is dedicated to purses at the horse racetracks  
25 and to the escrowed horse purse account from the greyhound

1 tracks. Pursuant to Commission Rule 321.505(a), each year  
2 the racetracks must negotiate with representatives of the  
3 officially recognized organizations representing horse  
4 owners, trainers and/or breeders for the allocation of  
5 purse funds earned at each track. Racetrack management  
6 then recommends to the Commission the specific allocation  
7 of simulcast purse revenue among the various breeds of  
8 horses at their respective racetrack.

9 The Commission may look to criteria detailed in  
10 Subsection 321.505(a)(4) when evaluating the racetracks'  
11 recommendations, however, if the racetracks and all of the  
12 official horse industry organizations reach a signed  
13 agreement, that agreement may then be submitted to the  
14 Commission for approval.

15 The distribution of funds collected in the  
16 escrowed horse purse account is covered in Commission Rule  
17 321.509. The funds set aside for the escrowed horse purse  
18 account are derived from simulcast wagering on interstate  
19 horse racing at greyhound tracks.

20 The rule requires that at least once a year the  
21 Commission shall distribute all funds accrued in the  
22 escrowed purse account to the horse racetracks. The  
23 racetrack associations are required to recommend the  
24 percentages by which the distribution of funds will be  
25 divided among the various breeds of horses.

1           The Commission must determine, first, the  
2 allocation among the tracks of the escrowed funds, and  
3 secondly, the percentages to be divided among the breeds  
4 at each racetrack of their allocated portion. The  
5 Commission may look to the criteria listed in Subsection  
6 (c) of this section of the rules when evaluating the  
7 racetrack association recommendations.

8           In lieu of this process, if the racetrack  
9 association and the official horse industry associations  
10 reach an agreement, they may submit that signed agreement  
11 to the Commission for approval as long as the agreement  
12 meets two criteria: First, the agreement must delineate  
13 the percentages by which the escrowed purse account  
14 revenue received by the association will be divided  
15 amongst the various breeds of horses; secondly, the  
16 agreement must be signed by all organizations recognized  
17 by the Commission or in the Act as representatives of  
18 horse owners, trainers and/or breeders.

19           Commissioners, beginning on page 76 of the  
20 meeting materials and continuing through page 97 are the  
21 racetrack recommended allocations of the simulcast purse  
22 funds, as well as a recommended distribution of the  
23 escrowed purse funds. Also included on pages 99 through  
24 105 are the letters and emails of support from each of the  
25 breed registries and the Texas Horsemen's Partnership for

1 the racetrack submitted breed split allocations.

2 Not included in the letters of support are the  
3 Texas Paint Horse Breeders Association indicating support  
4 for the Lone Star Park and Sam Houston Race Park proposed  
5 allocations, however, I did receive this morning an email  
6 from the Paint Association indicating they do support the  
7 proposed allocations for 2019.

8 All racetracks have recommended maintaining the  
9 status quo for calendar year 2019 for both sets of purse  
10 funds. I have provided a summary of both the simulcast  
11 purses and the escrowed purse on page 75 for your  
12 convenience.

13 Since all of the various horse industry  
14 organizations are in agreement with the proposed  
15 allocations and having met the requirements of the rule,  
16 staff would recommend approval of the allocation of  
17 simulcast purses and the distribution of funds from the  
18 escrowed purse account as proposed by the racetracks to  
19 the Commission. I'd be happy to answer any questions.

20 CHAIRMAN STEEN: Any questions?

21 (No response.)

22 CHAIRMAN STEEN: Thank you, Curley.

23 MR. TRAHAN: Thank you.

24 CHAIRMAN STEEN: If no questions or discussion,  
25 I'd entertain a motion to approve the allocation of purses

1 and distribution of the escrowed purse funds.

2 COMMISSIONER KLEINSCHMIDT: I have a question.

3 Devon, are we required to wait for a signed agreement  
4 from the Paint people?

5 MS. BIJANSKY: No, sir.

6 COMMISSIONER KLEINSCHMIDT: No? Okay.

7 That's all I have.

8 CHAIRMAN STEEN: Any further questions?

9 (No response.)

10 CHAIRMAN STEEN: The motion would be to approve  
11 the allocation of purses and the distribution of escrowed  
12 purse funds as described in the materials.

13 COMMISSIONER HICKS: I'll make the motion.

14 COMMISSIONER EDERER: Second.

15 CHAIRMAN STEEN: Motion made by Commissioner  
16 Hicks, seconded by Commissioner Ederer.

17 Any further discussion?

18 (No response.)

19 CHAIRMAN STEEN: We'll take this up for a vote.

20 All in favor please signify by saying aye.

21 (A chorus of ayes.)

22 CHAIRMAN STEEN: Any opposed?

23 (No response.)

24 CHAIRMAN STEEN: The motion carries. Thank  
25 you.

1                   We will not be entering into executive session  
2 today.

3                   The next meeting is scheduled for Tuesday,  
4 December 11.

5                   The time is now 11:27. With all business  
6 concluded, we are now adjourned. Thank you.

7                   (Whereupon, at 11:27 a.m., the meeting was  
8 adjourned.)

9                   I certify that the foregoing is a correct  
10 transcript from the electronic sound recording of the  
11 proceedings in the above-entitled matter.  
12

13  
14 /s/ Nancy H. King  
15 Certified Electronic Reporter  
16 AAERT No. CER-153  
17

10/16/2018  
Date