

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

OCTOBER 20, 2021

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.

1 APPEARANCES

2 COMMITTEE MEMBERS:

3 William T. Smith III (Trace), Chairman

4 Will Martin

5 Tommy Duncan

6 Jason Pohl

7 Melodye Green

8 Veronica Uriegas

9 Emile Bourgoyne

10 Kim Rogers

11 COMMISSION STAFF:

12 Cindy Fields, Commissioner

13 LaDonna Castañuela, Director of Charitable Bingo Operations

14 Tyler Vance, Assistant General Counsel

15 PUBLIC:

16 Steve Bresnen

17 Larry Segebarth

18 Margaret Baldwin

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P R O C E E D I N G S

WEDNESDAY, OCTOBER 20, 2021 (10:00 a.m.)

AGENDA ITEM 1

CHAIRMAN SMITH: It's 10:00 on October 20, 2021. This is the Bingo Advisory Committee meeting at the Texas Lottery Commission. Do we have everybody online that's supposed to be? Is all that working?

UNIDENTIFIED VOICE: Corey -- no, not Corey.

UNIDENTIFIED VOICE: Jason.

CHAIRMAN SMITH: Jason, can you hear us?

MR. POHL: Yes, sir. I can.

AGENDA ITEMS 2 AND 3

CHAIRMAN SMITH: Okay. All right. Well, I'll go ahead and call the meeting to order. We'll start off with the American Pledge and the Texas Pledge. I'll ask Mr. Will Martin to do that for us.

(Pledges recited)

AGENDA ITEM 4

CHAIRMAN SMITH: All right. Let's go after roll call here. Veronica.

MS. URIEGAS: Here.

CHAIRMAN SMITH: Veronica is here. Kim Rogers is here. Will Martin?

MR. MARTIN: Yeah.

CHAIRMAN SMITH: Melodye Green.

1 MS. GREEN: Here.

2 CHAIRMAN SMITH: Tommy Duncan.

3 MR. DUNCAN: Here.

4 CHAIRMAN SMITH: Emile Bourgoyne.

5 MR. BOURGOYNE: Here.

6 CHAIRMAN SMITH: Jason Pohl.

7 MR. POHL: Here.

8 CHAIRMAN SMITH: And Corey Harris. And --

9 MR. MARTIN: He called in and he couldn't make
10 it to the -- something about a hearing or something.

11 CHAIRMAN SMITH: Okay. All right. Okay.
12 That'd be the roll call. Before we get started on the rest
13 of our agenda here, Commissioner Fields is here today.
14 Commissioner Fields, would you like to say anything or
15 interject at this time?

16 COMMISSIONER FIELDS: Good morning, everyone.

17 MEMBERS: Good morning (in unison).

18 CHAIRMAN SMITH: Certainly glad to have you
19 here. We do recognize that you're making a great effort to
20 pay attention to us and that does mean a lot to us at the
21 time. Not to be negative about any other times, but it's a
22 pleasure to have someone invested and investing their time as
23 much as you have.

24 COMMISSIONER FIELDS: Thanks.

25 CHAIRMAN SMITH: We do appreciate that.

1 COMMISSIONER FIELDS: Appreciate you guys.

2 CHAIRMAN SMITH: Thank you. And we also have
3 Charitable Bingo Operation Division Director LaDonna here.
4 LaDonna, anything from you?

5 MS. CASTAÑUELA: Good morning, everybody.
6 Glad to be here.

7 CHAIRMAN SMITH: All right. And we also have
8 Tyler here today. Tyler, anything from you, sir?

9 MR. VANCE: No, sir. Not yet.

10 CHAIRMAN SMITH: All right. All right.

11 MS. CASTAÑUELA: Sorry. Could I just say one
12 thing?

13 CHAIRMAN SMITH: Yes, ma'am.

14 MS. CASTAÑUELA: Commissioner has graciously
15 reminded me that there is some big news in the Charitable
16 Bingo. So, just to let you all know that Vivian Cohn here,
17 on the other side of Tyler, is going to be our newly created
18 deputy director of the Charitable Bingo. And her position
19 starts on November 1st. So, congratulations, Vivian. If you
20 can't find me, call Vivian. She can find me.

21 CHAIRMAN SMITH: Well, Vivian, our
22 congratulations and our deepest sympathies.

23 (Laughter)

24 MS. CASTAÑUELA: Thank you.

25 CHAIRMAN SMITH: All right.

1 AGENDA ITEM 5

2 CHAIRMAN SMITH: And let's go on to the
3 meeting minutes from the last meeting, September 8th, which
4 feels like last week. Kim.

5 MS. ROGERS: I read through the minutes and it
6 all looked very good to me. Thank you to the court reporter
7 for such a good job. Public comment on the meeting minutes?
8 I make a motion that we accept them as they are posted.

9 MR. MARTIN: I'll second that.

10 CHAIRMAN SMITH: All right. We have a motion
11 and a second to accept the minutes as posted. All in favor?

12 (Chorus of "ayes")

13 CHAIRMAN SMITH: Any opposed? All right. The
14 meeting minutes are approved.

15 AGENDA ITEM 6

16 CHAIRMAN SMITH: I know on the agenda that you
17 have in your hands it goes to old business. There is some
18 things under that, that we can take care of real quick.

19 At the last meeting we made a motion to change
20 the way temporaries were filed online. And I kind of
21 misunderstood that. And I think we created an issue for the
22 staff inadvertently, which was our fault. We just didn't
23 understand it.

24 I've talked to several other members of the
25 BAC without getting a formal vote. I was very careful not to

1 do that, on the telephone.

2 I think what we need to do is change that
3 motion and do a re-vote to change the procedure back the way
4 it was to allow the procedure as we had it before, because,
5 if we leave it the way it was currently voted to do, it would
6 create some issues for the staff. And that's one of the
7 things we don't want to do.

8 Kim, would you like to tell us the way it was
9 so we can maybe redo this vote? And then, Tyler, I'd like to
10 call on you, if I could, after that and get the language
11 correct so we do this right.

12 MS. ROGERS: So, prior to us discussing it at
13 the last meeting and making our vote, the operators,
14 directors, officers, designated -- and I want to say
15 operators -- were allowed to apply for a temporary online,
16 which seemed to be working in the industry; it's when the
17 change came about, which is fine. So, that's how they want
18 to go back to making it where all of those individuals can
19 now still apply.

20 So, we just go back to the way it was before.

21 CHAIRMAN SMITH: I've talked to several people
22 in the industry and I haven't had any feedback from them. I
23 don't want to speak for Steve Fenoglio, but I will say, he
24 did express his okay for this, if you will. He's in favor of
25 doing this. So, if anybody has any questions about that, now

1 would be the time to ask. LaDonna.

2 MS. CASTAÑUELA: I just want to clarify that
3 the way it was before was that the extra folks like
4 operators, independent operators, authorized representatives,
5 could file online, but that the paper application was
6 different. It didn't allow those folks -- and the way it was
7 worded, the way that it was working, just because all of you
8 were filing online. Which is terrific, thank you.

9 MS. ROGERS: Online is the only way to go.

10 MS. CASTAÑUELA: Right. Right. But I just
11 want to clarify that the change was made to the online
12 version, so, changing back will be to the online application
13 and the paper application process will stay.

14 MS. ROGERS: I think if it goes back to the
15 way it was before, it was working great for the industry, as
16 far as I know.

17 MS. CASTAÑUELA: Good. Good.

18 MS. ROGERS: Would want to talk officially.

19 CHAIRMAN SMITH: Tyler, would you like to --

20 MR. VANCE: Sure. The motion would be to
21 request that the Division revert BSP back to allow temporary
22 licenses to be applied for online by bookkeepers, operators,
23 designated operators, in addition to officers, chairpersons.

24 CHAIRMAN SMITH: Well, I think we'll make that
25 motion in those exact words, then.

1 MR. VANCE: You got it.

2 CHAIRMAN SMITH: I'm not going to try to
3 repeat that, but we'll look back on the court reporter to do
4 that, I guess. But is there any comments on that? Only
5 probably for BAC members? No? Anybody? All right.

6 Well, I would like to make a motion in Tyler's
7 words, that we go back to the way it was.

8 MS. ROGERS: I second that motion.

9 CHAIRMAN SMITH: All right. We have a motion
10 and a second. All in favor.

11 (Chorus of "ayes")

12 CHAIRMAN SMITH: Any opposed? All right.
13 There we go. Tyler, LaDonna, thank you for sharing that. We
14 appreciate y'all taking the time out of your busy schedules
15 to do that for us.

16 MS. CASTAÑUELA: I expect that to get back to
17 the way it was in the next two or maybe three weeks. But
18 probably two weeks.

19 CHAIRMAN SMITH: Excellent. Wonderful.

20 MS. CASTAÑUELA: We'll let you know.

21 CHAIRMAN SMITH: All right. Excellent. Okay.

22 Going to the pull-tab workgroup. Emile, I
23 know we kind of tabled on things last time a little bit. Do
24 you have anything that you'd like to bring forward on the
25 pull-tab workgroup?

1 MR. BOURGOYNE: Well, I'd like to suggest that
2 if we're going to make a recommendation to change the rule
3 regarding the Texas seal that's required on the tickets, we
4 do it in a way that it's allowed to be on the tickets, on the
5 flare, or both. Because it's work to go back and change
6 existing product to remove the seal, which we don't have time
7 to do. So, I'd rather it be an either/or situation and not a
8 requirement on the ticket itself. But okay to be on the
9 ticket or on the flare. That would be our preference.

10 CHAIRMAN SMITH: Okay. All right. And then,
11 just to refresh my memory, in your opinion, you think, given
12 that either/or situation, it may free up some product to be
13 able to alleviate the shortage of pull-tabs in the state
14 right now?

15 MR. BOURGOYNE: Not short term.

16 CHAIRMAN SMITH: Not short term?

17 MR. BOURGOYNE: Not short term.

18 CHAIRMAN SMITH: But long-term?

19 MR. BOURGOYNE: But it has potential long-term
20 to create some additional product. Yes.

21 CHAIRMAN SMITH: Okay. Tommy, do you agree
22 with that?

23 MR. DUNCAN: No.

24 CHAIRMAN SMITH: No? Okay.

25 MR. DUNCAN: I just think it's premature to

1 worry about it now for something that's going to maybe help
2 us in 12 to 18 months.

3 CHAIRMAN SMITH: Okay.

4 MR. DUNCAN: But it could hurt us tomorrow.

5 CHAIRMAN SMITH: In what way?

6 MR. DUNCAN: Well, if they have to resubmit,
7 the manufacturer is not making jumbo tickets anymore. They
8 resized them to five-window to streamline the process.

9 CHAIRMAN SMITH: Okay. I'm not --

10 MR. DUNCAN: Okay. You're not familiar -- so
11 it went from nine and a half to ten and a half on the size of
12 the ticket. Because they like a ticket about that big. A
13 jumbo.

14 CHAIRMAN SMITH: Okay. Yeah. I'm just not
15 familiar with --

16 MR. DUNCAN: Okay. That's how they're
17 pressed, it takes longer, more manpower, so to streamline it
18 they changed all of those to regular five-window size tickets
19 so we can get tickets faster. They said they weren't going
20 to have to resubmit. Well, they did. And this was in May.

21 CHAIRMAN SMITH: When they went from jumbo
22 sized --

23 MR. DUNCAN: They didn't change anything.
24 They just shrunk the ticket.

25 CHAIRMAN SMITH: But they had to resubmit.

1 MR. DUNCAN: They had to resubmit. That was
2 in May and we got the first ticket last week. So, if
3 something happened to somewhere along the line, we passed
4 this rule to remove the seal and they say, you know what,
5 we're not going to have to, I need you to resubmit
6 everything and remake everything without the seal. Well,
7 guess what, we went from having a few tickets to no tickets.

8 MR. BOURGOYNE: That would be a problem.

9 MR. DUNCAN: For months.

10 MR. BOURGOYNE: Yes.

11 MR. DUNCAN: So, I think now is not the time
12 -- there's so many other things in there, too. You've got
13 the instant rule, you've got the window size. I mean, there
14 are --

15 CHAIRMAN SMITH: Right.

16 MR. DUNCAN: -- tons of things that have to be
17 changed to really get any traction on getting in on runs with
18 other parts of the country. It's not just the seal.

19 CHAIRMAN SMITH: Right.

20 MR. DUNCAN: And they just don't have time to
21 remake plates, they don't have time to do anything. It'll
22 hurt more than it'll help.

23 CHAIRMAN SMITH: Okay.

24 MR. DUNCAN: But you know what, in 8 or 10
25 months we look at it again when things maybe level out.

1 CHAIRMAN SMITH: So, let me ask you a
2 question. If I heard you right, and I may have misunderstood
3 you because I'm famous for that.

4 MR. DUNCAN: Yeah.

5 CHAIRMAN SMITH: But what I thought I heard
6 you say was when they changed from a jumbo tab to --

7 MR. DUNCAN: A five-window size.

8 CHAIRMAN SMITH: -- they had to resubmit.

9 MR. DUNCAN: Right.

10 CHAIRMAN SMITH: And you just got the new
11 ticket last week or last month?

12 MR. DUNCAN: Yeah, because it has to go back
13 in the line. They're not going to stop and reprint these
14 tickets for us. There's a process these manufacturers are
15 working with right now. And we can't put anything in the way
16 of that.

17 CHAIRMAN SMITH: Okay.

18 MR. DUNCAN: All we can do is hope they get
19 close to their target dates.

20 CHAIRMAN SMITH: Right. So, I'm trying to
21 establish a timeline. So, what I think I understood was when
22 they submitted for that change and they changed it from the
23 jumbo tab to the five-window, that --

24 MR. DUNCAN: They had to remake the plates and
25 everything. It takes time. I don't see the reason --

1 CHAIRMAN SMITH: So when they redo it and they
2 resubmit and they change everything, it takes about five
3 months. Is that correct?

4 MR. DUNCAN: Well, that was that one ticket.
5 I can't tell you --

6 CHAIRMAN SMITH: Oh, that was one ticket.

7 MR. DUNCAN: Yeah. I can't tell you --

8 CHAIRMAN SMITH: Okay.

9 MR. DUNCAN: -- there's 14 or 15 more that I
10 have that I'm waiting on. But you're talking about 200
11 tickets that they have to resubmit? We're done. It's just
12 too risky. I mean, unless you want --

13 CHAIRMAN SMITH: So this process --

14 MR. DUNCAN: Unless you want to go back and
15 look at the whole rule in a rules change and make changes
16 based on that for a year from now, hey, I'm all for that.
17 But --

18 CHAIRMAN SMITH: Right.

19 MR. DUNCAN: Let's don't jump into something
20 that unintended consequences --

21 CHAIRMAN SMITH: Sure.

22 MR. DUNCAN: -- can bite us.

23 CHAIRMAN SMITH: Sure.

24 MR. DUNCAN: And it's not going to help us.

25 CHAIRMAN SMITH: So, I'm not completely

1 familiar with the approval process, obviously, I'm not
2 exposed to that. So, when you resubmit and it comes out, the
3 approval process, is that then by a third-party?

4 MR. DUNCAN: The approval is done here, and
5 that's not the problem. They approve stuff in a day right
6 now.

7 CHAIRMAN SMITH: Okay.

8 MR. DUNCAN: I mean, the approval process
9 isn't the problem. The manufacturer is the problem. And
10 they're not shutting down presses to change stuff for Texas.
11 I can tell you that right now.

12 CHAIRMAN SMITH: Okay.

13 MR. DUNCAN: We'll just get left behind in the
14 dust at that point.

15 CHAIRMAN SMITH: So, Emile, and maybe this
16 might be a question for you. On a, say, nationwide scale,
17 you may not be able to answer this, or you might be able to
18 -- on a nationwide scale, what percentage of pull-tabs that
19 the manufacturers are making go to Texas? Is it a sliver?
20 Is it a big piece of the market? I mean, is it --

21 MR. BOURGOYNE: I don't know the exact
22 percentage, but it's a decent percentage.

23 CHAIRMAN SMITH: Yeah.

24 MR. BOURGOYNE: It's not a Minnesota. The
25 bulk of our product goes to Minnesota and the Ohio region,

1 but Texas -- I'd ballpark it at 25.

2 CHAIRMAN SMITH: 25%?

3 MR. BOURGOYNE: I'd ballpark it in that
4 neighborhood.

5 CHAIRMAN SMITH: Do you think that's fair?

6 MR. DUNCAN: It's close. I mean, if you look
7 at the distributors in Texas, such as Royal Bingo and
8 Goodtime --

9 CHAIRMAN SMITH: Yeah.

10 MR. DUNCAN: -- we're probably in the country
11 -- Larry can elaborate on that -- we're probably 12, 13 down
12 the line of distributors.

13 Mr. BOURGOYNE: In size. Yes.

14 MR. DUNCAN: Yeah. About 12 or 13. So,
15 there's 12 other guys that are going to get their product
16 while we're worrying about taking a seal off.

17 UNIDENTIFIED VOICE: Gotcha.

18 CHAIRMAN SMITH: Okay. Yeah.

19 MS. URIEGAS: I think I have a question. Just
20 so I understand a little bit more.

21 So we have to resubmit because the
22 manufacturer is changing the size? Is that why?

23 MR. DUNCAN: Well, pretty much any change
24 requires a resubmittal. Now we thought we --

25 MS. URIEGAS: And was that something -- what

1 I'm asking is the manufacturer said they wanted to change the
2 size, so we had to resubmit because of the manufacturer. Is
3 that what I understand?

4 MR. DUNCAN: Pretty much.

5 MS. URIEGAS: Okay.

6 MR. DUNCAN: Well, they gave us no choice.
7 It's either resize or don't get that particular ticket. So,
8 that particular manufacturer has a couple of pretty popular
9 open-market Tic Tac slots. You should see the resized ticket
10 on that in the coming days.

11 CHAIRMAN SMITH: So, do you know what the
12 purpose of just resizing it was?

13 MR. DUNCAN: Yeah. So, we could get those
14 tickets in run along with everything else, on a digital
15 press, basically. The jumbo tickets are done on an offset
16 press. Like I said, it's more manpower. It's another --

17 CHAIRMAN SMITH: Okay.

18 MR. DUNCAN: -- whole line of equipment. So,
19 in their defense, they were doing this to get us tickets
20 faster. That was their solution.

21 CHAIRMAN SMITH: Gotcha. There was a
22 concerted effort to help us.

23 MR. DUNCAN: Which we welcomed.

24 CHAIRMAN SMITH: Yes.

25 MR. DUNCAN: Absolutely. And I was in Vegas

1 with five of them last week and, to a man and woman, they
2 said, the seal, just leave that alone. Because they're not
3 remaking plates. So, they're not making anything new right
4 now.

5 So, just because we remove the seal doesn't
6 mean we're going to get new tickets. All we're getting is
7 reprints of what's been out there already. They don't have
8 time to make new tickets.

9 CHAIRMAN SMITH: Right.

10 MR. DUNCAN: They're just trying to get us
11 what we can get.

12 CHAIRMAN SMITH: Gotcha. Okay. Emile?

13 MR. BOURGOYNE: Again, no short-term solution
14 there.

15 CHAIRMAN SMITH: Right.

16 MR. BOURGOYNE: But potentially it's a long-
17 term solution.

18 CHAIRMAN SMITH: Okay.

19 MR. BOURGOYNE: But resubmittals are an issue.
20 If we just remove the seal, and we have to resubmit it, it's
21 going to go to the back of the line.

22 CHAIRMAN SMITH: Right.

23 MR. DUNCAN: Well, it's got plates to be made
24 at that point and they're not doing that.

25 MR. BOURGOYNE: It's going to go back to the

1 back of the line.

2 MR. DUNCAN: Yeah.

3 MR. BOURGOYNE: That's why I said the and/or.

4 CHAIRMAN SMITH: Gotcha.

5 MR. BOURGOYNE: Where we could leave it on
6 there if we already got it on there. And if we make a new
7 game, we'll make it without the seal and put it on the flare
8 and now we got something we can sell in other markets. That
9 was the issue.

10 CHAIRMAN SMITH: Ah. Thank you. Okay. Steve
11 Bresnen.

12 MR. BRESNEN: On behalf of the Bingo Interest
13 Group, Steve Bresnen. I don't understand. And as you all
14 well know, I ain't in the bingo business, I'm in the
15 government business. And what I'm hearing Emile say is the
16 government would offer an option to the manufacturers. And
17 if this concern that you're expressing is one that the
18 manufacturers say, I ain't making new plates right now, I'm
19 not stopping these runs, they'll continue to do what they've
20 been doing.

21 The fact that it's a long-term solution I
22 don't consider that to be a downside. Bingo's been here
23 since the early to mid '80s. It's sucking wind right now.
24 I'm looking around and seeing ships 80 deep parked off of
25 ports around the country that can't get product unloaded.

1 The country's in the ditch because of the supply chains and
2 things that are broken up. We're going to need a long-term
3 solution.

4 I'm talking to some of you who your business
5 is in the toilet and we're looking up, I'm not hearing
6 anybody talk about the manufacturers -- and I'm not bad-
7 mouthing the manufacturers by saying this, but I'm not
8 hearing anybody saying, here's what the manufacturers are
9 going to do for us that's going to be a short-term solution
10 for the problem. If there is one I would love to hear it.

11 But I'm not opposed to a solution that's long-
12 term if it's 12 to 18 months.

13 If resubmittal is a problem, rewrite the rule
14 to say if the change is all you're doing is changing the
15 seal, or it might even be if all you're doing is changing the
16 size, everything else is the same. I don't know if that's
17 the case. I know I'm not a member of the committee, so I'm
18 not asking to engage in dialogue with you. But I wouldn't
19 write something off because it's a long-term solution. And,
20 it depends on what you consider a long-term.

21 But it seems to me it would be in the agency's
22 -- and I'll defer to Tyler on this -- it'll be in the
23 agency's discretion to write the rule in a way that would
24 say, if that's the only change, that you're not resubmitting.
25 Or if the change is -- might use some general language, like

1 if the change is incidental, if the change is not
2 substantial. If the tab is substantially the same and
3 substantially in compliance with the pre-approved tab.

4 There's all kinds of ways within the statutory
5 limits that this could be lawyered in a way to make this
6 happen. But I'm assuming that everybody in this room wants
7 bingo to be available in the long-term. So, why we wouldn't
8 do this when we could and it's optional -- I don't
9 understand.

10 Sometimes fresh eyes, sometimes the people are
11 not deeply involved in the nuts and bolts like y'all are,
12 sometimes it's a good thing to have people with fresh eyes
13 look at something and go, I don't understand that and see if
14 you can't move forward anyway.

15 So, as a member of the public, more or less in
16 this meeting, I don't understand. And I would say if you
17 could give an option and then write around this resubmittal
18 problem that would be a good thing to do.

19 Again, I don't understand. I don't want the
20 industry going off the ditch because a guy who didn't
21 understand shot his mouth off at a public meeting. But I
22 think we need to be a little bit more aggressive in
23 advocating some solutions to this problem. If there are no
24 solutions, I'll go back to bed.

25 MR. DUNCAN: I'll respond to that. Tommy

1 Duncan. I don't disagree with him, but it doesn't have to be
2 voted on today. Those things he's talking about, let's sit
3 down with the Lottery, the lawyers, let's get all those
4 things that can bite us done before we worry about removing a
5 seal.

6 CHAIRMAN SMITH: I think that's what we're
7 trying to do here.

8 MR. DUNCAN: Okay. But there's no sense in
9 voting on about -- a vote the --

10 CHAIRMAN SMITH: We're not voting on it.

11 MR. DUNCAN: I'm just saying what we talked
12 about on the phone we would bring this to a vote at the in-
13 person meeting, I believe. It's what we said on the virtual.
14 Am I correct in that?

15 CHAIRMAN SMITH: Yeah.

16 MR. DUNCAN: That's right. Okay.

17 CHAIRMAN SMITH: I don't remember that.

18 MS. ROGERS: I think we just said we would
19 defer speaking about it at the next meeting. So, --

20 MR. DUNCAN: Yeah. But we didn't want to
21 bring it to a vote on a virtual meeting.

22 CHAIRMAN SMITH: No.

23 MR. DUNCAN: Right.

24 CHAIRMAN SMITH: Yeah.

25 MR. DUNCAN: Now I'm not opposed to taking the

1 seal off. That's not what I'm saying.

2 CHAIRMAN SMITH: All right.

3 MR. DUNCAN: If it's not going to help us for
4 12 or 18 months, we have time to look at the big picture.
5 Because there's a lot in the rules that --

6 CHAIRMAN SMITH: Yeah.

7 MR. DUNCAN: -- Mr. Bresnen was talking about
8 that could be changed to help us. Not just the seal.

9 CHAIRMAN SMITH: Right. And I agree with that
10 and I think Steve does as well. I think Steve's point is
11 more of let's do something. We got to get on the ball, got
12 to get it rolling. But --

13 MR. DUNCAN: But let's not do something just
14 to do something.

15 CHAIRMAN SMITH: No. I don't think that was
16 his point at all.

17 MR. DUNCAN: No. I know that wasn't his
18 point. I'm just saying that's my personal opinion.

19 CHAIRMAN SMITH: Right.

20 MR. DUNCAN: Let's all just jump out and do
21 something.

22 MR. MARTIN: The manufacturers.

23 CHAIRMAN SMITH: Yes. I agree. Steve.

24 MR. BRESNEN: Let me just say one other thing.
25 Takes about 6 months to change a rule. As I understand, the

1 Commission's going to have one more meeting this year. Is
2 that correct?

3 MR. VANCE: In December.

4 MR. BRESNEN: In December. So, you got time
5 to do what you're talking about. I'm in the business of
6 pressing legislators to vote when I want them to vote and not
7 vote when I don't want them to vote.

8 MR. DUNCAN: I understand.

9 MR. BRESNEN: So, I don't have any problem
10 with doing the due diligence that you're talking about and
11 having that kind of spade work done before voting occurs.

12 MR. BOURGOYNE: Exactly.

13 MR. BRESNEN: And I think that's a fruitful
14 idea. So, -- but just to be sure, I want to encourage on
15 behalf of my clients that we be moving the ball forward and
16 with the understanding it takes about 6 months to get a rule
17 in place. Would you agree with that, Tyler? Usually takes
18 about 6 months. The agency can make the rule effective at
19 any date it wants to, too, when it finally adopts it.

20 So, if the industry needed time to accommodate
21 or whatever, all that could be done. So, I'd be fully
22 supportive of it, but I would be pressing that you vote on
23 doing those kinds of changes that'll align us with the rest
24 of the country and allow us to have access to the market.

25 I will say one other thing. This legislature,

1 at the request of the governor, passed a bill that requires
2 the governor's approval of anything that might affect
3 competition in the marketplace. You all know what I'm
4 talking about? I can't recall the chapter right now.

5 It is clear that the policy in the State of
6 Texas and the governor of Texas to be doing things that knock
7 down barriers to competition and the operation to drive up
8 costs to regulated industries in Texas. You would be
9 operating, and so would this agency, entirely consistent with
10 legislative policy and the governor's approach to regulated
11 markets.

12 And so I would strongly urge you that if
13 you're not going to, if there's other stuff to be done,
14 you're the expert and I'm not. But I would strongly urge you
15 to do the kind of work that you're talking about and get
16 Texas into participating in the interstate, maybe
17 international, market for these things. Because everybody
18 tells me costs are too high, the regulatory burdens are too
19 burdensome, et cetera.

20 So, I'm agreeing with you, but I'd like to
21 light a fire under the process at the same time and see
22 something happen. Because I've been hearing for years about
23 the problems at the, what I'd say consumer level, but not
24 really from bingo player consumer level, from people in the
25 halls.

1 So, anyway, I would relay that and
2 respectfully request that you follow the kind of process that
3 you're talking about. But vote in time for the agency to act
4 should the Commissioners so approve by its December meeting.
5 Thank you.

6 CHAIRMAN SMITH: Thank you, Steve.

7 Emile, I know this is your workgroup and I
8 know you've provided a list in the past of options that we
9 could do to improve and maybe change things. And I know the
10 seal was just one of the things on that, and I know there
11 were some other things. Would you re-email that to us so we
12 could re-look at that list and kind of get that fresh on our
13 minds?

14 Because I think I do like Steve's idea. Let's
15 get something together and even if it's short-term or long-
16 term solution, let's start getting the ball rolling.

17 MR. BOURGOYNE: Let me remind you, there were
18 no short-term solutions in our list.

19 CHAIRMAN SMITH: Right.

20 MR. BOURGOYNE: They were all long-term
21 solutions.

22 CHAIRMAN SMITH: Right.

23 MR. BOURGOYNE: And let me talk about this
24 seal issue for just one last time.

25 I would not recommend that we require the seal

1 to be on a flare and be removed from the tickets. So,
2 existing plates could stay the same and not have to be
3 changed, not have to be sent through. Just work on it. Down
4 the road when we get to where we can make the product --

5 CHAIRMAN SMITH: Right.

6 MR. BOURGOYNE: Where we can put it on those
7 tickets and we would submit them like that. Anything we have
8 to change now is bad.

9 CHAIRMAN SMITH: Gotcha.

10 MR. BOURGOYNE: That's why I would go with the
11 an and/or approach to where the seal can go, flare or
12 tickets. But nothing that exists today would have to change.

13 CHAIRMAN SMITH: Gotcha.

14 MR. BOURGOYNE: That's approved today.

15 MS. ROGERS: I have a question. So, by
16 listening to all of you talking, Mr. Bresnen also, what
17 basically are we trying to say is that the pull-tab rule, I
18 know there's more than one, needs to be looked at again, add
19 some general language, so we have a long-term. I sure hope
20 bingo's around for a long time.

21 MR. BOURGOYNE: Yeah. Yeah, yeah. You and me
22 both.

23 MS. ROGERS: But put that together and get
24 that to where it can work easier with the manufacturers and
25 distributors and all of us because the old rule is not

1 working. Is that kind of what I'm gathering?

2 MR. BOURGOYNE: Well, the other thing on the
3 list was removing more than two instant requirements on a
4 bingo event ticket, which no other state has that
5 requirement. That's the other one that we talked about.

6 And, again, the workgroup wanted to caution
7 the BAC to work with Legal to make sure we don't cross that
8 line of not being a pull-tab bingo ticket anymore and being a
9 bingo game puts it on the prize board.

10 CHAIRMAN SMITH: Yes.

11 MR. BOURGOYNE: Yeah. We don't want to do
12 that. So, if by removing those instants, we put it on the
13 bingo side the prize board and the session limitations,
14 that's a killer. We are not going to step on that bridge.

15 MR. DUNCAN: And -- Tommy Duncan again.

16 And this has come up before under Phil
17 Sanderson. This is why we have the three instant rule. We
18 were going to remove all of the instants. He told us in a
19 meeting, be very careful, guys, put it on the prize board.
20 That's what distinguishes it. But it's not just the
21 instants. There's a window-size.

22 To really ramp it up and get in with the rest
23 of the country, we got to look at the whole rule --

24 MS. ROGERS: That's right.

25 MR. DUNCAN: -- and match up with what the

1 rest of the country's doing.

2 MR. BOURGOYNE: But not necessarily in payout.
3 What we're doing here with the window size and how far a
4 symbol could be from the die-cut area. It is duplicating
5 what Minnesota did. That's the only two markets that require
6 that. In the other markets, we don't have those restrictions
7 with event tickets and that sort of thing. That's what
8 you're talking about. Yeah.

9 CHAIRMAN SMITH: So, and this question is, I
10 guess, directed to both of you, really. It may be Minnesota,
11 but what state sells the most pull-tabs, and what are their
12 requirements? Are they a lot different than Texas
13 requirements? It would seem to me that if we're going to get
14 into rule changes, or rewriting rules and changing things
15 out, it would seem to me that if they're selling more tabs
16 than anybody else in the country, we might want to try to
17 model our pull-tab rules after them if it fits our model.

18 MR. BOURGOYNE: They're selling pull-tabs in
19 bars.

20 CHAIRMAN SMITH: Pardon?

21 MR. BOURGOYNE: They're selling pull-tabs in
22 bars.

23 MR. DUNCAN: Yeah. That's not a charity.

24 MR. BOURGOYNE: It's a different structure.

25 MR. DUNCAN: Yeah. We're charitable.

1 CHAIRMAN SMITH: Right.

2 MR. DUNCAN: And not every state is
3 charitable. Some states are for-profit bingo.

4 CHAIRMAN SMITH: Okay.

5 MR. DUNCAN: Yeah.

6 MR. BOURGOYNE: They're for-profit bingo, but
7 they lease bar space to charities and they sell these pull-
8 tabs in bars. That's why there's 1.7-billion-dollars worth
9 of pull-tabs sold each year.

10 MR. DUNCAN: And that's why we can't get
11 tickets from one manufacturer. He's concentrating on
12 Minnesota.

13 CHAIRMAN SMITH: Okay. All right. That being
14 said, if those pull-tabs are selling like hot cakes
15 everywhere they're sold, whether it's in a bar or in a bingo
16 hall, it would seem to me that those pull-tabs work. And if
17 they work in a bar, I would feel pretty sure that they would
18 work even better in a bingo hall. Why not look at doing
19 something like that? Does that make any sense at all?

20 MR. BOURGOYNE: It doesn't work that way.
21 So,rry. It doesn't work that way.

22 MR. DUNCAN: No. It doesn't.

23 MR. BOURGOYNE: They're primarily a three-tab
24 instant pull-tab market. This is what it is.

25 CHAIRMAN SMITH: Okay.

1 MR. BOURGOYNE: \$2 tickets.

2 MS. ROGERS: Well --

3 MR. BOURGOYNE: You're primarily a bingo event
4 market, 5-tab tickets. Completely different product.

5 MS. URIEGAS: But I have a question. This is
6 Veronica. Does that go under the IRS under bingo, or pull-
7 tabs?

8 MR. BOURGOYNE: Pull-tabs.

9 MS. URIEGAS: So, if they're doing it under
10 pull-tabs, why can't we do something similar even though it's
11 for nonprofit? I don't understand.

12 MR. DUNCAN: Well, we don't really sell
13 instants here in Texas. Tommy Duncan.

14 If you haven't noticed, I don't think
15 anybody's made an instant in a few years now. But it's a
16 completely different market. It's apples and oranges. I
17 mean --

18 MS. URIEGAS: I'm not talking about the
19 market. I'm not talking about the rule of the pull-tab. So,
20 how is anybody playing anything else?

21 MR. DUNCAN: What I'm saying is, Texas and
22 Minnesota are the two most regulated that have all these
23 different rules with inside the tab. He's not saying we need
24 to be like Minnesota, but if we could be like the rest of the
25 country and change our rules to match up with the other

1 event-tab markets --

2 MS. URIEGAS: Right.

3 MR. DUNCAN: -- that might benefit us.

4 MS. URIEGAS: Well, that's my point, is that
5 they're calling it an event in other markets, other states,
6 so we shouldn't be held to just bingo, calling it bingo, if
7 we'd make a little change. You know what I'm saying?

8 MR. DUNCAN: Right.

9 MS. URIEGAS: Do you understand? What I'm
10 trying to get at, is why are we so concerned about being
11 audited by the IRS when under that bingo if other markets are
12 doing it and they're not calling it bingo; they're calling it
13 event tickets as well.

14 MR. DUNCAN: No, no. I mean --

15 MS. URIEGAS: Am I missing something?

16 MR. BOURGOYNE: Yeah. Let me make myself
17 clear. The issue with the instants on the event game,
18 whether it's a pull-tab bingo ticket or a bingo game, isn't
19 necessarily an IRS thing. It could be down the road, but
20 it's Texas auditors for the charitable gaming Division here.
21 Then they say, this is a bingo game and not a pull-tab bingo
22 game.

23 MS. URIEGAS: Okay.

24 MR. BOURGOYNE: That's what Phil Sanderson
25 threatened years ago.

1 MR. DUNCAN: That's exactly right.

2 MS. URIEGAS: So, we're worried about Texas
3 not -- okay. Texas rule just --

4 MR. DUNCAN: Well, what we're saying,
5 Veronica, is now you sold that little 125 all-play for \$125
6 comes out of one of your bingo games.

7 MS. URIEGAS: Gotcha. So, we need Texas to
8 fix it.

9 MR. DUNCAN: Yeah. So, you could only sell
10 \$2,500 and pay out on pull-tabs. Nobody wins on that.

11 MS. URIEGAS: Gotcha.

12 MR. BOURGOYNE: I'll resend the list.

13 CHAIRMAN SMITH: Okay. All right. And I
14 think there might be some better ideas, but we definitely
15 need you to get to work on that. I think I would like to
16 maybe have another meeting before the Commission meeting in
17 December. I believe it's the 18th. Is that correct, Tyler?

18 MR. VANCE: Something like that.

19 CHAIRMAN SMITH: Somewhere around there. That
20 way we can meet again and have something to possibly present
21 to the Commissioners for a rule change in December. Or at
22 least get the ball rolling in that direction and get
23 something close to present to them in December. So, all
24 ideas are welcomed.

25 Emile, anything else on your report, sir?

1 MR. BOURGOYNE: No, sir.

2 CHAIRMAN SMITH: Okay.

3 MR. DUNCAN: This is Tommy Duncan.

4 CHAIRMAN SMITH: Yes, sir.

5 MR. DUNCAN: I'm just going to -- there needs
6 to be a meeting off the record. You can be there, Kim can be
7 there, Emile can be there. We need a manufacturer there. We
8 don't need the Lottery here; it can be right here in this
9 room. We've had off the record meetings in here before, so
10 we can sit down and have somebody lay out on paper what
11 you're asking. So, you can actually see it. So, you know
12 what we're talking about.

13 CHAIRMAN SMITH: Absolutely.

14 MR. DUNCAN: So, and I believe Larry
15 Segebarth can do that, but we don't have to have a BAC
16 meeting to do that.

17 MS. ROGERS: Mr. Bresnen will be there for the
18 language, to open up the language so we can -- so they can --

19 MR. DUNCAN: Tyler can be there. I would love
20 for Tyler and the director to be there. That's who was at
21 the last rules change

22 CHAIRMAN SMITH: Right.

23 MR. DUNCAN: -- deal we did. Right? Kim was
24 there. I mean, Mr. Fenoglio could be there. We want, we
25 need that.

1 CHAIRMAN SMITH: Absolutely.

2 MR. DUNCAN: But, move over here and get on
3 the microphones, we should have a meeting so you can --
4 because I know you don't really understand what we're saying.
5 And then we can really show it to you.

6 CHAIRMAN SMITH: Okay. Well --

7 MR. DUNCAN: Larry, would you agree?

8 MR. SEGEBARTH: No. I would -- Larry
9 Segebarth from American Games. I don't want to take a lot of
10 time, but just so everybody understands from a manufacturing
11 standpoint, we have Minnesota product that's primarily only
12 sold in Minnesota. The Texas product is primarily only sold
13 in Texas, and we have the rest of the country product. And
14 so, we have three different inventories and so it's three
15 times the work.

16 And so the product I sell in Texas sometimes
17 could or could not be legal in Louisiana. So, we would have
18 to create some instances of two of the exact same products,
19 with the exception of three tickets, so I could sell one in
20 Louisiana and one in Texas or one in Texas and one in
21 Florida.

22 And so in the ideal world we'd have, we'd look
23 at the rules and where it would allow us to sell the same
24 exact product in two, three, four, five markets -- in the
25 United States there's probably 30, I think, 35 states that

1 sell pull-tabs. Of those 35 states, there's probably 10 plus
2 or minus bingo event markets.

3 If you go into a lot of other states, they
4 don't play bingo events at all. Minnesota is a prime
5 example, they only play instants in bars for the most part.
6 And so, if we could look at those eight or 10 states that
7 play the bingo event product and try to have a commonality
8 amongst all those, it would certainly help on the
9 manufacturing side. Because it allows us to have one
10 inventory, one product.

11 And so from a manufacturing standpoint, I
12 don't have to create almost two identical products with the
13 exception of one or two percent profit change or two or three
14 tickets. And it would be better off for the industry for
15 sure.

16 MS. ROGERS: And that's the knowledge that we
17 need at the meeting.

18 CHAIRMAN SMITH: Absolutely. I agree.

19 MS. ROGERS: With yours, with the Legal and
20 everything.

21 CHAIRMAN SMITH: I agree. And I may not have
22 articulated this, Tommy, very well, but you're exactly on
23 point. And that's what generally we'll do is, like, when a
24 workgroup sends out everything, that workgroup will meet and
25 figure out something and then they bring it to the next

1 meeting. So, you're absolutely --

2 MR. DUNCAN: Well, I'm not opposed to that --
3 to all of us sitting in on that meeting. Because we're all
4 going to be the ones voting.

5 MR. SMITH: Absolutely.

6 MR. DUNCAN: They all need to see it, you
7 know.

8 CHAIRMAN SMITH: Sure. Absolutely.

9 MR. DUNCAN: Because I think the instants are
10 going to be the kicker for us. That's your hurdle.

11 CHAIRMAN SMITH: Yeah. I think you're right.

12 MR. BOURGOYNE: I've got a sheet that I'll
13 share with you.

14 CHAIRMAN SMITH: Okay.

15 MR. BOURGOYNE: It gives you the requirements
16 in each state.

17 CHAIRMAN SMITH: Okay. Be glad to see it.

18 MR. BOURGOYNE: It's quite cumbersome to --

19 CHAIRMAN SMITH: Yeah. I bet.

20 MR. BOURGOYNE: -- say the least.

21 CHAIRMAN SMITH: Okay. All right. Anything
22 else on this, Emile?

23 MR. BOURGOYNE: No, sir.

24 CHAIRMAN SMITH: No, sir. Tommy?

25 MR. DUNCAN: No, sir.

1 CHAIRMAN SMITH: All right. Well, we look
2 forward to the information and we'll get together and have
3 something ready to go, to at least talk about it at the next
4 meeting, anyway. All right.

5 The bingo website workgroup; Corey Harris is
6 not here to talk about that today, so we will push that back
7 to the next Bingo Advisory Committee workgroup meeting for
8 them.

9 One thing that I would just quickly bring up
10 on the bingo website, and I don't really know who to direct
11 this to other than just staff, is it's very difficult to find
12 out when the meetings are. You have to -- there's a number
13 of steps that you have to go through to get to when the
14 meetings are. And I think we've asked this prior to LaDonna
15 being here. And it probably just fell through the cracks as
16 things do sometimes.

17 But if we could get maybe just something on
18 the ticker that says, don't forget the Bingo Advisory
19 Committee meeting, whenever it is. I think that would make
20 it a lot easier for people that do get on the Bingo website
21 to have that knowledge readily available. When you have a
22 lot of steps you have to go through to get to the basic
23 information, it discourages people. Especially me, because
24 I'm technologically challenged. Extremely. But, anyway,
25 that would be my only request on that. Anybody else on that?

1 MS. ROGERS: Agreed.

2 CHAIRMAN SMITH: Yeah? Okay. All right.
3 Well, we'll table that until Corey gets back on the next
4 meeting.

5 Under old business, if you will remember, we
6 had three rules that we approved at the last meeting that
7 were for the Commission. And I spoke to Tyler earlier, and
8 Tyler or LaDonna or whoever would like to refresh our
9 memories on that. That way we could just --

10 MR. VANCE: Sure. This is --

11 CHAIRMAN SMITH: The Commission meeting's
12 tomorrow and we have to present that tomorrow for approval.

13 MR. VANCE: Right. Right. This is Tyler
14 Vance.

15 Unfortunately, I don't have the exact
16 citations, but there are three rule amendments being proposed
17 tomorrow and these are being done to comply with statutory
18 changes. One is under the military applicants for licensure,
19 the Legislature amended the definition of "Armed Forces of
20 the United States" this session to include the Space Force,
21 so our rule needs to be changed to include the Space Force.

22 The net proceeds rule -- we've got a
23 difference; the Bingo Enabling statute provides that a two-
24 year license will be evaluated for negative net proceeds from
25 start date to anniversary date in the first year and from

1 anniversary date to anniversary date in the second year. And
2 our rule says the second year will be anniversary date to the
3 day before the anniversary date. And so this has created
4 some weird accounting issues. We need to square these two
5 and make sure that -- where the rule also says, start to
6 anniversary, anniversary to anniversary.

7 And then the final one is under applicants
8 with criminal backgrounds. Our rule says that if we send you
9 a letter saying we're proposing to deny you due to your
10 criminal background, you have 20 days to respond to us with
11 mitigating evidence. The Penal Code -- or, I'm sorry,
12 Chapter 53 of the Occupations Code provides that you have 30
13 days to respond. So, we've already amended that on our
14 forms. We're already giving people 30 days. But we need to
15 change the rule to say from 20 to 30.

16 CHAIRMAN SMITH: Okay. All right. Thank you,
17 sir. I do appreciate that. And we've already voted on that
18 and put our, I guess, our rubber stamp on it. So, I just
19 wanted to remind everybody that was going to be tomorrow at
20 the Commission meeting.

21 Is there any other old business? Anyone from
22 the public? Old business?

23 MR. VANCE: I'll make a comment while I'm
24 still here. Tyler Vance.

25 So, for the last year, so, we've been granting

1 negative net proceeds waivers, and charitable distribution
2 waivers. There are two ways under the statute to do this;
3 either you submit a credible business plan, or you declare
4 force majeure. Historically that was like hurricanes, fires,
5 they're destroying the highway in front of my bingo hall and
6 things like that. Well, for the last year and a half or so
7 we've accepted COVID, so people would submit a net proceeds
8 waiver and they just write COVID on it and we just grant it.
9 No questions asked. Here you go.

10 Well, at the pace we're on currently, at some
11 point that's going to have to stop, unless, God forbid, COVID
12 round 5 comes up in December or whatever and this thing keeps
13 going, but it looks like at some point in the near future,
14 COVID is not going to be a legitimate force majeure issue.

15 The governor lifted his order in March that
16 placed restrictions on occupancy limits and businesses, so we
17 were thinking to peg it towards next March so that, because
18 negative net proceeds run on an annual basis. And so the
19 idea was a year from that order you'll no longer have any
20 kind of excuse that the government restricted my business.

21 And so we were thinking about March, but we
22 just wanted to float this by you guys so, hopefully, you guys
23 could think about it and discuss it.

24 Of course Mr. Bresnen worked with us before
25 COVID and before times to amend the credible business plan

1 rule to a point where your business plan is presumed
2 credible, which means it will be granted, as long as you
3 haven't submitted one in the prior three years.

4 So, even if we do away with the force majeure
5 COVID waivers in March, if somebody's panicking and, what do
6 I do, you can just tell them, well, you can submit a credible
7 business plan and presumably you haven't submitted one in the
8 prior three years, so it will be granted.

9 So, it's not going to catch anyone completely
10 flat-footed if we stop doing it in March, but, at some point,
11 we just have to decide that COVID is no longer a force
12 majeure issue.

13 CHAIRMAN SMITH: Would -- and this may be not
14 the time or place, and if it is, just tell me and we'll catch
15 up another time. But I know a lot of halls are tab-heavy
16 halls for their distribution. If they're not able to get the
17 product to sell, would that be considered -- or possibly
18 could that be considered?

19 MR. VANCE: Boy, yeah. I really don't know.
20 We'd have to consider that. Historically, it's tied to
21 declarations or emergencies by the government.

22 CHAIRMAN SMITH: Okay.

23 MR. VANCE: Health related, again, hurricanes,
24 fires, plagues.

25 CHAIRMAN SMITH: I don't mean specifically

1 tying that to a force majeure, but, I mean --

2 MR. VANCE: Right.

3 CHAIRMAN SMITH: -- in an incident where they
4 can't get a product to sell, but typically they've been --
5 and I'm just using broad examples here.

6 MR. VANCE: Sure.

7 CHAIRMAN SMITH: But would that be something
8 that y'all consider as --

9 MR. VANCE: It would certainly fall under a
10 credible business plan. You could say, we lost money last
11 year because pull-tabs are unavailable. Our plan for the
12 next year is to reduce hours --

13 CHAIRMAN SMITH: Okay.

14 MR. VANCE: -- until the market picks back up
15 and we can resume normal operations. I mean, that would be a
16 reasonable --

17 CHAIRMAN SMITH: Because I think the pull-tab
18 shortage is going to get a lot worse before it gets better.

19 MR. VANCE: Yeah.

20 CHAIRMAN SMITH: I'm afraid of that.

21 MS. GREEN: Melodye Green. I got a call right
22 before we came in here and it was from a hall that did go
23 negative for four quarters because they had the opportunity
24 to buy \$50,000 worth of pull-tabs and they bought them.
25 Bang.

1 But that's still -- all of this is COVID
2 related. I understand that the big --

3 MR. VANCE: Sure.

4 MS. GREEN: -- picture, but we can't get the
5 pull-tabs because of this. And we have a hall in a smaller
6 city and half the people in that city have COVID, and so, our
7 attendance is down. We were just talking about that and the
8 free money has stopped. The attendance is down. The COVID's
9 going up.

10 So, I don't know about March, because the
11 pull-tabs, it's a big problem and all of it's due to COVID.
12 I mean, it was due to the shutdown. You can't get, you don't
13 have enough people working.

14 MR. DUNCAN: Well, the attendance numbers as
15 well.

16 MS. GREEN: The attendance numbers are, yeah,
17 it's due to COVID, it's not due to they don't want to play.

18 MR. DUNCAN: It's not because of a government
19 mandate.

20 MS. GREEN: Right. So, --

21 MR. DUNCAN: Yeah.

22 MS. GREEN: And they're going negative because
23 they had an opportunity to buy the \$50,000 worth of tabs and
24 if you have an opportunity to buy them, you better.

25 MR. VANCE: Yeah. The problem with this force

1 majeure issue is where do we draw the line on this? You can
2 make a reasonable argument that COVID may permanently affect
3 the bingo industry. And, therefore, COVID may permanently or
4 should permanently be a legitimate force majeure issue for
5 negative net proceeds.

6 I don't think the agency wants to take that
7 position, but I think people could argue that. But we've
8 historically tied it to a well-defined event. Again, the
9 natural disaster, a declaration of an emergency by the
10 government.

11 I think you can always make that argument
12 under the credible business plan exception, you can always
13 say, look, COVID's affected our business. All of our numbers
14 are down across the state. But then you have to provide them
15 a credible business plan of how you're going to respond to
16 that in order to generate profits. Whereas under force
17 majeure, there's no evaluation done, you just write COVID and
18 we grant it.

19 CHAIRMAN SMITH: Gotcha. I understand what
20 you're saying.

21 MS. GREEN: Yeah.

22 CHAIRMAN SMITH: Okay. Well, we appreciate
23 you giving us a heads up on that. That's a big step forward.
24 We appreciate that very much. Any other old business?

25 All right. Well, we'll skip over to new

1 business.

2 AGENDA ITEM 7

3 CHAIRMAN SMITH: Any new business? Will
4 Martin, sir.

5 MR. MARTIN: Well, this definitely is not new
6 business. This is something that I've been fighting for
7 eight years, and I want to know when the BAC and the Texas
8 Lottery Commission is going to finally get serious about
9 getting rid of illegal game rooms in the state of Texas.
10 I've heard about -- don't worry about games in towns, if
11 you're in Corpus, you're already customer. They do 105 game
12 rooms running Corpus Christi.

13 I got a call the other day from Midland, said
14 game rooms were going in down there. At another meeting I
15 went to another group in the town of Kingsbury, and they told
16 me, they said, Will, this is a small town, we only have seven
17 buildings in the whole town. Now two of those buildings are
18 game rooms.

19 So, I'm the (indiscernible) the money and
20 we're the only customers and everybody's sitting there
21 worrying about, are going to get tabs? Well, pretty pretty
22 soon we won't need the tabs.

23 CHAIRMAN SMITH: Well, unfortunately, Will,
24 and I definitely sympathize with you, I agree with you.
25 Illegal gaming is a problem. Unfortunately, that does not

1 fall under the purview of the Lottery Commission unless it's
2 inside of a bingo. And I wish there was something that we
3 could do, or a direction we could take, to have our local law
4 enforcement enforce that.

5 MR. MARTIN: No, we don't need local law
6 enforcement. Those gamblers can buy deputies and sheriffs
7 all day. We need the State to do something, and as a Bingo
8 Advisory Committee we have to care about the gambler and get
9 all of our legislative people and it's way overdue and
10 actually, the State's losing more money than bingo is. And
11 they need to do something. So, I'd like to see serious
12 government organized. It hurts the distributors. It hurts
13 manufacturers and everyone.

14 CHAIRMAN SMITH: Well, unfortunately, I think
15 that -- and, Tyler, correct me if I'm wrong here, I don't
16 believe the BAC can try to influence a legislator or a state
17 agency to --

18 MR. MARTIN: To get up off their backside.

19 CHAIRMAN SMITH: Sir?

20 MR. MARTIN: To get up off their backside?

21 CHAIRMAN SMITH: Well, I wouldn't put it in
22 that way, but I don't think the BAC can grant authority to
23 anyone, much less a state agency.

24 MS. ROGERS: The town of Kingsbury needs to
25 call their legislators.

1 CHAIRMAN SMITH: Yes.

2 MS. ROGERS: They need to go walk, I mean,
3 what Trace is trying to put nicely is it's not the place
4 here; we can't do anything about it. We can't. Just we
5 can't.

6 MR. VANCE: This is Tyler Vance. I think that
7 it's more than likely legal in those places. So, last
8 session, two prior sessions ago, they created a law that
9 would allow local municipalities to vote on whether or not
10 game rooms would be legal. If so, they will be licensed and
11 taxed by the comptroller's office and a local authority.

12 So, in many of these, and they still need to
13 fall under the "fuzzy animal" exception, and the \$5 or less.
14 Whether they do or they don't, I mean, that's up to the local
15 authorities. But many of these are operating under
16 authorizations from the local municipalities.

17 But, then again, to reiterate everything Trace
18 said, we've been over this issue that the Lottery Commission
19 doesn't -- we regulate legal gaming, not illegal gambling.
20 And, yeah, I agree that the purpose of the BAC is to advise
21 the Commissioners on rulemaking and industry trends and
22 issues. And you can -- as individuals, you can certainly, if
23 you want to, get together and make a petition to somebody
24 somewhere, that's fine. But, yeah, the purpose of the BAC as
25 we're here today isn't to --

1 MR. MARTIN: Well, will it fall under force
2 majeure? Did you have all this illegal gaming going on in
3 your counties then? I mean, that's --

4 MR. VANCE: Again, I don't know that it's
5 illegal. There are avenues for it to be perfectly legal.

6 CHAIRMAN SMITH: Sure. Yes, ma'am.

7 MS. BALDWIN: My name's Margaret Baldwin.
8 What about the game rooms that are advertising bingo and
9 advertising pull-tabs being played at the facility at the
10 game rooms? They're advertising bingo and pull-tabs.

11 MR. VANCE: Yeah. So, if you -- so that would
12 --

13 CHAIRMAN SMITH: That's going to be a question
14 for Tyler.

15 MR. VANCE: That would be similar -- so, like,
16 if a restaurant advertises bingo and somebody complains about
17 it, we'll send them a cease and desist and let them know that
18 it's a felony to advertise bingo if you're not an
19 organization or a lessor.

20 MS. BALDWIN: They're putting out big old
21 banners right out front of the deals.

22 MR. VANCE: Yeah. Well, you can send us a
23 complaint, we'll send them a cease and desist, and then copy
24 their local law enforcement and let them know about it. But,
25 again, this is a local law enforcement issue. So, if the

1 sheriff doesn't care, that's kind of the end of the story.

2 MS. BALDWIN: Well, he has talked to them
3 multiple times.

4 MR. BOURGOYNE: Out of curiosity, why wouldn't
5 it be considered an unlicensed bingo game? Which it would be
6 under your jurisdiction.

7 MR. VANCE: It's like Facebook. We only
8 regulate licensed bingo. That's the extent of our
9 jurisdiction. We don't have authority over -- unlicensed
10 bingo is illegal gambling, which is a law enforcement issue.
11 It's a crime. I don't have any prosecutorial authority. I
12 can't present a case in a criminal court and prosecute
13 somebody for a misdemeanor or a felony. I can only
14 discipline somebody who has a license that we've issued, so.

15 CHAIRMAN SMITH: Would you want that
16 authority?

17 MR. VANCE: No.

18 CHAIRMAN SMITH: I think the point I was
19 trying to make is I know a lot of the operators like her,
20 it's very frustrating. And I think as a general consensus
21 throughout the industry, and I think Will would agree with
22 this, I think we're looking for someone, somebody, some
23 agency, some entity, if you will --

24 MR. VANCE: Yeah.

25 CHAIRMAN SMITH: -- to tackle that issue.

1 Because we, unfortunately, the charities are the ones that
2 get raped on that deal. And there's no way to combat it.

3 MR. VANCE: I would just recommend you talk to
4 your DA, talk to your sheriff, talk to your city council and
5 go and say, look guys, we're making money legally, we've
6 followed all the rules, we're doing this for charities, and
7 these guys are clearly taking some part of the action of
8 bingo away from us.

9 MR. MARTIN: Will Martin. I'm going to tell
10 you, what you're saying sounds good on paper, but in reality
11 it don't work. It don't work.

12 CHAIRMAN SMITH: Steve Bresnen.

13 MR. BRESNEN: I agree in the matter of law
14 with everything that Tyler has said. But I respectfully
15 request that y'all consider whether just as a matter of
16 policy, if you receive a complaint like that, you would
17 forward the complaint to the DPS. We may have more leverage
18 with the DPS than we do with some of the local folks.

19 MR. VANCE: I think we could do that. I don't
20 see any issue with that.

21 CHAIRMAN SMITH: All right. Thank you, sir.

22 MR. MARTIN: I can tell you the little verse
23 that goes along with that. We have been for two years
24 investigating game rooms. The game room who really was open
25 day and night, and they -- if you call them they said, well,

1 it's an ongoing investigation. I'm like, are y'all waiting
2 on retirement or what? So, like I said, they (indiscernible)
3 bingo -- yes, sir?

4 UNIDENTIFIED VOICE: And that's all you can
5 do.

6 MR. BRESNEN: I have one other suggestion.
7 Consult a lawyer in your area to determine whether they'd be
8 willing to file a lawsuit against the entity for being a
9 public nuisance. Because the operation of a gaming house, I
10 believe, is a violation of the public nuisance statute and
11 you'd have a civil cause of action. But you need to find you
12 a local lawyer who's willing to file a lawsuit on your
13 behalf.

14 MS. URIEGAS: This is Veronica. Don't waste
15 your money. There was a shooting at the game room two doors
16 down from me and they've had numerous drug problems, drug
17 trafficking, have all these kinds of incidences on record,
18 we've been doing it over a year and they can't do anything
19 because they have a lease. So, we have to wait until their
20 lease expires. So, don't waste your money. They're not
21 going to do anything.

22 MR. BRESNEN: I'm sorry to keep popping up.
23 But a landlord who turns the other -- assume it was a house
24 of prostitution and the landlord was aware of it and the
25 landlord allowed it to be going, then the landlord's subject

1 to liability under the nuisance clause.

2 MS. URIEGAS: He is not turning the other
3 cheek. He's actually hired security. They document
4 everything. We've got an officer, Kelly, who works with us.
5 He said, just can't do it.

6 MR. BRESNEN: Well, as somebody who also
7 represents the Texas Trial Lawyers Association, I can tell
8 you there are public nuisance laws that can be used. I would
9 suggest you find you a civil lawyer in that area to evaluate
10 whether there's a cause of action against that entity. Once
11 you get them -- their arm locked behind them with the
12 nuisance laws, you may have some leverage.

13 I'm not here to give anybody legal advice.
14 I'm just telling you if it was me, that's what I'd do.

15 CHAIRMAN SMITH: Okay. Is there any other new
16 business? Anything else?

17 AGENDA ITEM 8

18 CHAIRMAN SMITH: Okay. Let's look at dates
19 for the next meeting. Tyler, you said that the next
20 Commission meeting is the 18th?

21 MR. VANCE: I think so.

22 MS. ROGERS: 16th.

23 MR. VANCE: 16th? 16th.

24 CHAIRMAN SMITH: 16th? And that's December,
25 correct?

1 MS. ROGERS: So, there's tomorrow and then
2 December 16th.

3 MR. VANCE: Yes.

4 MR. DUNCAN: December 16th, I think.

5 MS. URIEGAS: Do we want to do it the 15th?

6 CHAIRMAN SMITH: That works for me.

7 MR. BOURGOYNE: What date?

8 MS. URIEGAS: The day before.

9 CHAIRMAN SMITH: Veronica suggested the 15th.
10 The day before the Commission meeting.

11 MS. ROGERS: I'm fine with that date. I will
12 be a call-in. I have my fourth grandchild coming, so.

13 CHAIRMAN SMITH: Oh, you do? Congratulations.

14 MS. ROGERS: Thank you.

15 CHAIRMAN SMITH: All right.

16 MS. ROGERS: So, I'm out for December.

17 CHAIRMAN SMITH: Yeah.

18 MR. MARTIN: December 15th?

19 CHAIRMAN SMITH: You good with that?

20 MR. MARTIN: I'm good with that.

21 CHAIRMAN SMITH: Melodye?

22 MR. MARTIN: I am.

23 CHAIRMAN SMITH: Tyler, you good with that?

24 MR. BRESNEN: Is that after the Commission
25 meeting?

1 MS. ROGERS: It's the day before.

2 MS. URIEGAS: The day before.

3 MR. BRESNEN: Oh, thought it was the 13th.
4 So, rry.

5 MS. ROGERS: Commission meeting will be on
6 December 16th they said.

7 MR. DUNCAN: That's a Thursday.

8 CHAIRMAN SMITH: All right. Okay. So, the
9 next meeting will be Wednesday, pending the room being
10 available, Wednesday the 15th of December at 10:00 a.m.

11 MS. GREEN: What about the meeting for the
12 pull-tabs? Done with the meeting before the meeting?

13 MS. ROGERS: We'll do that separate.

14 CHAIRMAN SMITH: Yeah. We'll do that separate.

15 MR. DUNCAN: You want to do it before our
16 meeting?

17 CHAIRMAN SMITH: Absolutely. Yeah.

18 MR. DUNCAN: You want to do it on the 14th?
19 You want to do it on the 14th and make a day of it?

20 CHAIRMAN SMITH: Well, I think what we can do
21 is once Emile emails all that stuff out, let's --

22 MR. DUNCAN: We'll do something there.

23 CHAIRMAN SMITH: -- give it a day or two to
24 digest and then if we need to meet at a different location,
25 we can. Or --

1 MR. DUNCAN: Yeah. That's fine.

2 CHAIRMAN SMITH: Just, Tyler, so I make sure
3 we don't get into any trouble, just a question real quick.
4 If we do decide to meet in that workgroup, if we have a
5 quorum there's no issues you'll --

6 MR. VANCE: Yeah. Y'all aren't subject to the
7 Open Meetings Act, so --

8 UNIDENTIFIED VOICE: Yeah, we're not --

9 CHAIRMAN SMITH: Okay. I just wanted to make
10 sure we were still all right on that. I don't want to jump
11 off a ledge here.

12 MR. BOURGOYNE: And we want him there.
13 Somebody there with -- so they can --

14 CHAIRMAN SMITH: Yeah.

15 MR. BOURGOYNE: -- you know, go back and forth
16 on the rules with it. You know what I'm saying?

17 CHAIRMAN SMITH: Okay. All right. Well --

18 MR. BOURGOYNE: Well, they sat down with us
19 last time, so.

20 MR. DUNCAN: So, that's on the 14th?

21 MR. BOURGOYNE: Yeah. It worked out well.

22 MS. URIEGAS: We're going to send an email --
23 they'll send an email and then we're going to discuss it and
24 then we'll set it up.

25 CHAIRMAN SMITH: Yeah. Let's do that in

1 there.

2 MR. BOURGOYNE: You'll have mine early next
3 week. If not the weekend. I'll be home Friday.

4 MR. MARTIN: Ain't going to be a virtual
5 phone-in or whatever?

6 MR. BOURGOYNE: Probably not.

7 CHAIRMAN SMITH: I would imagine it could
8 probably -- you could probably be able to call in, I would
9 imagine. Let's see what info we've got and then --

10 MR. MARTIN: I'll be in Houston at that time
11 of the day, I'm going to be tied up, so,.

12 CHAIRMAN SMITH: Well, it may not be -- it'll
13 probably be before the 14th.

14 MR. MARTIN: Oh, good.

15 CHAIRMAN SMITH: Because we'll have to talk
16 with our people and go over everything. And I'm sure this
17 will be more than one-hour meeting. Yes.

18 All right. Well, I sure thank you for
19 attending, Tyler and LaDonna.

20 (Pause)

21 AGENDA ITEM 9

22 CHAIRMAN SMITH: All right. Well, thank
23 y'all very much. This concludes today's meeting.

24 MS. ROGERS: Thank you.

25 (Meeting adjourned at 11:03 a.m.)

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 28th day of October, 2021.

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

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