

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

August 6, 2024

2:00 p.m.

AT

1801 Congress Avenue
George H. W. Bush Building
4th Floor, Board Room 4.300
Austin, Texas 78701

Transcript prepared by Rev.com and Commission staff from an
audiovisual recording.

APPEARANCES

COMMITTEE MEMBERS:

William T. Smith III (Trace), Chairman

Melodye Green

Floyd Olive

Tommy Duncan Jr.

Jason Pohl

Veronica Uriegas

COMMISSION STAFF:

LaDonna Castañuela, Director of Charitable Bingo Operations

Tyler Vance, Assistant General Counsel

Vivian Cohn, Deputy Director of Charitable Bingo Operations

PUBLIC:

Dr. Demetrick "Tre" Pennie

Sharon Ives

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PROCEEDINGS

TUESDAY, AUGUST 6, 2024 (2:00 p.m.)

AGENDA ITEM I

CHAIRMAN SMITH: Alright. Good afternoon and welcome to the Bingo Advisory Committee meeting at the Texas Lottery Commission. It is 2:02 p.m. on August 6, 2024. I will call the meeting to order, and we will recite the Pledge of Allegiance to the United States and the Texas flags. Please rise.

(Pledges recited)

Before we go on to the roll call, item number two--just a note of history--thirteen years ago today, Extortion 17 was on a mission, and we lost 31 American heroes, SEAL Team Six, Gold team, and we would just like to remember them today and thank their families for their sacrifice.

AGENDA ITEM II

CHAIRMAN SMITH: Item number two, roll call. I am here. Melodye.

MS. GREEN: Here.

CHAIRMAN SMITH: Veronica.

MS. URIEGAS: Here.

CHAIRMAN SMITH: Stacie. Stacie get on, online? No? Okay. Tommy.

MR. DUNCAN: Here.

CHAIRMAN SMITH: Jason? No. No Jason?

MR. DUNCAN: That's him.

CHAIRMAN SMITH: Okay.

1 MR. POHL: I'm here.

2 CHAIRMAN SMITH: Oh, there he is. Good job. Thank you Jason.
3 Glad you're with us.

4 MR. POHL: Yes, sir.

5 CHAIRMAN SMITH: Alright. Michael, did he get on, by chance?

6 MS. URIEGAS: He was on the phone.

7 CHAIRMAN SMITH: Well, he may be on, he might just be muted
8 at the time. They may--okay. Alright, so Michael's not on. Floyd--

9 MR. OLIVE: Here.

10 CHAIRMAN SMITH: --and Corey. Alright, we do have a quorum
11 today.

12 AGENDA ITEM III

13 CHAIRMAN SMITH: Item number three, meeting minutes from
14 July 19, 2024. And those meeting minutes were available, reading them
15 earlier, so--

16 MS. URIEGAS: I move they be approved.

17 MR. DUNCAN: I second.

18 CHAIRMAN SMITH: Alright, we have a motion and a second to
19 approve the meeting minutes from July 19th. All in favor say aye.

20 (Chorus of "ayes")

21 Any opposed? All in favor. No opposed. Any public comment?
22 Alright. Motion carries. Meeting minutes are accepted.

23 AGENDA ITEM IV

24 CHAIRMAN SMITH: Alright. Item number four, rules review
25 subcommittee report. Is there anybody from the public that would like
26 to comment on this before we go into this? No. Okay. We did have our

1 rules review subcommittee report this morning at 10:00 a.m. We had
2 good attendance on that. The rules review has really done a good job
3 on this. This is one of the most fluid rule review processes that I've
4 seen in a long, long time and I'd like to credit that to LaDonna and
5 Tyler for the way they've done this and made it readily available and
6 easy for us to talk about and go over all the different 1,000
7 iterations of each rule. So, we greatly appreciate that, and I think
8 I'd be okay to make a motion that the BAC, that the BAC would like to
9 move forward with the rule review process, and we welcome that going
10 into public comment.

11 MR. DUNCAN: I second it.

12 CHAIRMAN SMITH: We have a motion and a second. All in
13 favor?

14 (Chorus of "ayes")

15 Any opposed? Motion carries.

16 AGENDA ITEM V

17 CHAIRMAN SMITH: Alright. Sunset Commission update. Sunset
18 Commission meeting is scheduled for next Wednesday, which is going to
19 be--

20 MS. CASTAÑUELA: The 14th.

21 CHAIRMAN SMITH: --the 14th. Do we have a time on that yet,
22 LaDonna?

23 MS. CASTAÑUELA: Nine o'clock.

24 CHAIRMAN SMITH: 9:00 a.m.? Okay. The only other info that I
25 have on that so far is that Mr. Bell, Representative Bell, will be the

1 chairman of that committee, is that correct? Yes. Okay. Alright.
2 LaDonna, do you have anything you want to add to that? Pardon?

3 MS. CASTAÑUELA: No, I do not.

4 CHAIRMAN SMITH: Okay. Anyone else--Sunset review. Any
5 public comment?

6 AGENDA ITEM VI

7 CHAIRMAN SMITH: Alright. Item number six, BAC nominations
8 for fiscal year 2025. So, we were tasked this go around to re-look at
9 all the nominations. The complete process was opened up for
10 nominations by the commissioners. Our job as the Bingo Advisory
11 Committee was to look through all those applications--and there were
12 quite a few, actually, I forget the total number. Do you remember--it
13 was 14? Yeah. Okay. There was 14 total nominations that were
14 submitted. We had a subcommittee of Veronica and Melodye and I, and
15 Veronica and Melodye did the heavy lifting on this, thank goodness.
16 And they did quite the thorough job. If I may, this is just one stack
17 and some of their notes--that Melodye and Veronica took the time to
18 call each and every one of the applicants and nominees and talk to
19 them extensively. Veronica and Melodye, y'all want to comment on this?

20 MS. GREEN: Well, the nominees were very excited about bingo.
21 They wanted to learn the process and it was very nice to see that they
22 wanted to come and--believe we have a--

23 MS. URIEGAS: Dr. Pennie.

24 MS. GREEN: --Yeah, Dr. Pennie, here. He was one that we
25 spoke to about, he came from Plano, so I don't know if you wanted him
26 to come up and say a few words or not.

1 CHAIRMAN SMITH: Yeah, yeah. We're going to invite him up
2 here in just a few minutes, but go ahead.

3 MS. GREEN: It was very interesting, and it was--because
4 we're immersed in bingo, and it was interesting to talk to people that
5 were not. So, I think you had a great group of people there and
6 anybody that they choose will be super for the BAC going forward, I
7 think.

8 MS. URIEGAS: I agree. It was a variety of people from all
9 different backgrounds, all different ages. And so it was nice to hear
10 everybody's different input of how little or how much they didn't
11 have. So, we really enjoyed getting to know other people and getting
12 to hear their perspective of the BAC and why they wanted to join. So,
13 it was good. It was a learning process for both of us. We really
14 enjoyed getting to know everybody and so we've made our recommendation
15 on that.

16 CHAIRMAN SMITH: Excellent. So, back on July 19th is when we
17 had our vote to decide who the BAC was recommending for the BAC for
18 next year and for the commissioners to choose from. So, I'm going to
19 run through that list real quick just so that we can all have that on
20 the record. There were six original members on the BAC that we voted
21 to recommend to the commissioners. And I will read off their names and
22 their position on the BAC--which is me, Trace Smith, conductor;
23 Melodye Green, commercial lessor; Floyd Olive, manufacturer; Tommy
24 Duncan, distributor; Jason Pohl, conductor; Veronica Uriegas, charity
25 lessor. We did have three spots that were vacant. One of those, which
26 being a public member. We thought that was a very big step in this

1 whole process, was getting a true public member. And I'd like to thank
2 LaDonna and the commissioners for making that happen. I know y'all
3 sent some emails to some different places trying to look for new
4 people. We appreciate that. So, the three new members that we're
5 recommending to the commissioners for the BAC are Audrey Walter, a
6 conductor lessor; Shera Wilson, a public member; and Dr. Pennie,
7 Demetrick Pennie, he goes by Tre; so, he is also a public member. And
8 Dr. Pennie is in the audience today and we would allow him or like for
9 him to come up and say a few words if you'd like to, sir. Grab at the
10 mic right there, I'm sorry.

11 MR. PENNIE: Good afternoon. I want to say thank you to the
12 BAC for inviting me out. It's always an honor to go before our state
13 committees and see the great work that the state does. For those of
14 you that don't know who I am, I am Dr. Tre Pennie. I'm a 22-year
15 Dallas Police Sergeant, retired. I'm also the President of the
16 National Fallen Officer Foundation. Very familiar with nonprofits. But
17 that opened the door for everything I've done with my national
18 advocacy. As the President of the Fallen Officer Foundation, I've
19 consulted for the House and Senate, U.S. House and Senate, for three
20 years on public safety policy. So, as you know, everything dealing
21 with public safety or public interest is a primary concern of mine.
22 And I know with all the billiards and bingo halls across the country,
23 there's no different from anything else. We have to deal with crime.
24 Anytime you get people together, you have to worry about what happens
25 with those congregations. And I want to do everything that I can to
26 protect the public interest, while also ensuring that our nonprofits

1 are not being taken advantage of by the groups that support bingo for
2 these nonprofits. So, I want to make sure that we--there's clear
3 transparency across the board and that nonprofit organization have a
4 real opportunity to thrive. And without any further ado, I just want
5 to say thank y'all for having me and if y'all, I'd love to--look
6 forward to meeting each and every last one of you at the end of the
7 meeting. Thank you.

8 CHAIRMAN SMITH: Thank you very much, we appreciate you. And
9 hopefully we look forward to working with you. So, you have our list
10 for the BAC nominations for next year and I know there's some proposed
11 rule changes that would help the staff, and the commissioners not have
12 to re-look at everybody, every year. So, we welcome that change as
13 well. I'm sure that'd take a lot of stress out of everybody's life,
14 so--we'll definitely be supporting that. Are there any other
15 discussions on the nominations? Alright, very good. Alright, before we
16 go on to old business, Commissioner Fields, is there anything you
17 would like to add or take away from? Okay, thank you very much. Just
18 wanted to extend the offer.

19 AGENDA ITEM VII

20 CHAIRMAN SMITH: Alright. Item number seven, old business.
21 Any public comment?

22 AGENDA ITEM VIII

23 CHAIRMAN SMITH: If none, we'll go on to item number eight,
24 new business--Ms. Sharon Ives.

25 MS. IVES: Good afternoon, Sharon Ives, Fort Worth
26 Bookkeeping. My office provides bookkeeping, accounting, payroll

1 services for various halls in north-central Texas. So, I have a
2 question regarding raising capital limit. So, I know there's a form
3 online, which once that's completed, I understand that a business plan
4 needs to be submitted with that form. My question is how detailed does
5 that business plan need to be? The reason I'm asking--

6 CHAIRMAN SMITH: Are you talking about the formula for the
7 operating capital?

8 MS. IVES: That is correct. And the reason I'm asking is
9 this has to do with a particular hall that, of course, was closed
10 during COVID. Once the operations in the state of Texas lifted, this
11 particular hall stayed closed due to remodeling, I should say, issues
12 along the way. Once this hall opened last year, they only conducted
13 bingo, I think it was seven weeks, so that was in the latter part of
14 the year. So, to my surprise, in January when the operating capital
15 limit was set by the Lottery Commission, Bingo Division, that capital
16 limit was, I believe it was \$15. It might be 14, so don't really quote
17 me on that. So, that being the case, that raised their charitable
18 distribution requirement a lot. So, if that charity distribution was
19 mandated to be distributed, that would pretty much zero out their
20 checking account.

21 CHAIRMAN SMITH: So is--if I may ask a question, I'm not
22 familiar with the formula--is the formula posted online for that?

23 MS. IVES: Not that I'm aware of.

24 CHAIRMAN SMITH: --operating capital.

25 MS. IVES: The capital limit is set on units in January of
26 every year. That is set by the staff. Correct?

1 CHAIRMAN SMITH: Is it--I don't want to put you on the spot,
2 Tyler. I mean, if you need to come back to that, we can. I was just
3 curious if there's like a formula that's online or something that we
4 can look at, and maybe--

5 MR. VANCE: It's in rule 402.451(e); it says, the retained
6 operating capital for a unit will be calculated based on the quarterly
7 reports for the four quarters, four quarter period beginning October
8 1st through September 30th of each year. And the retained operating
9 capital for a unit is effective January 1 through January 31st. The
10 calculation for an organization is--I don't see the formula, but any
11 request--you can always request a raise in the capital limit and it's
12 completely at the director's discretion, provided that it's
13 demonstrated that it's necessary to facilitate the operation of the
14 organization.

15 MS. IVES: Correct.

16 MR. VANCE: And so--

17 MS. IVES: And I was told that a business plan needed to be
18 attached to that request.

19 MR. VANCE: I don't believe that's required. That's required
20 of a waiver request. Like if you need a net proceeds waiver or a
21 charitable distribution waiver, there needs to be a business plan--

22 MS. IVES: Right.

23 MR. VANCE: --provided that it's your second one in three
24 years or something that we changed a couple of years ago. But on this--

25 -

1 MS. IVES: So, once I submit that form, what's the
2 turnaround time as far as getting that approved and getting that
3 operating capital limit raised?

4 MR. VANCE: There's nothing in the rule specified. I think
5 it's just up how quickly they can process it and make a determination
6 if they have enough information to make that determination.

7 MS. IVES: Okay.

8 MS. GREEN: I have a question. Where would \$15 have come up?
9 I mean, you can't do anything--you can't operate any business with
10 \$15. Was that a formula?

11 MS. URIEGAS: I guess--is that something that can be
12 reviewed? And--

13 MR. VANCE: So in a statute it says of the--they may retain
14 operating capital in their account in an amount that is equal to their
15 actual average expenses per quarter based on the proceeding license
16 period, excluding prizes paid. And so that's how--if they weren't
17 doing anything--

18 MS. GREEN: They were on hold.

19 MR. VANCE: --that's how it plummeted down to near zero.

20 MS. GREEN: Is that something we can look at? Because--I
21 mean--anybody would know you can't do that. And now you've got a hall
22 that's kind of on hold and having to go jump through these hoops to
23 operating capital. I mean ours is 250,000. Hers is \$15?

24 MR. VANCE: Yeah, you just have to apply for it.

25 MS. CASTAÑUELA: Just have to apply and go through the
26 process.

1 MS. CASTAÑUELA: Are they playing more now?

2 MS. IVES: I'm sorry, what?

3 MS. CASTAÑUELA: Are they playing more now?

4 MS. IVES: Yes.

5 CHAIRMAN SMITH: So, if you're a startup hall, does that
6 come into play, the previous years' operating capital? Because if
7 you're a startup hall, it's going to be zero for operating capital.
8 How do you get around that?

9 MR. VANCE: I think it would default to 50,000, is the
10 highest allowed in the statute.

11 CHAIRMAN SMITH: Maybe that's something we can take a look
12 at another time or try to figure something out.

13 MS. GREEN: Just so you're aware of it. A lot of times
14 there's so many things going on, you're not aware of it, so you can't
15 fix it.

16 MS. URIEGAS: So, does she have a time limit on when she has
17 to have this done because if she empties out her account and she's
18 going to have to close down?

19 MR. VANCE: No, you can request it at any time. Anybody can
20 request a raise in their operating capital at any time.

21 MS. CASTAÑUELA: Have you submitted one?

22 MS. IVES: So, if I submit the application, then it could be
23 backdated for--since it's a unit--to January 1, is that--I would
24 assume that's how it would work, correct?

25 MS. CASTAÑUELA: We'd have to look at the form, Sharon.

26 MS. IVES: Okay, I'll get it, I'll get it to you tomorrow.

1 CHAIRMAN SMITH: So is this--

2 MS. CASTAÑUELA: Well--if you'll send the questions through
3 Bingo Services, you'll get help.

4 MS. IVES: Right.

5 MS. URIEGAS: If she doesn't empty her bank account, if she
6 doesn't distribute all the funds, what happens? Because she's supposed
7 to distribute all the charitable distribution out--

8 MR. VANCE: [indiscernible] Until that limit gets raised, she
9 would have to, if it comes to that point where the limit hasn't been
10 raised at the time, 25 days after the quarter or whatever, then--

11 MS. URIEGAS: Right. But if she doesn't disperse all that,
12 what--is she going to be held responsible for--is there a penalty for
13 not distributing?

14 MR. VANCE: Yeah, that will be a failure to distribute
15 charitable funds. You could also submit a waiver to distribute
16 charitable funds--would be another version of this. Or you could do
17 both at the same time. You can request an operating capital increase
18 and, also a waiver of the charitable distribution requirement, while
19 your operating capital request is pending, so that if that deadline
20 somehow got passed, you could have a waiver to say we want a waiver
21 for this quarter for charitable distribution because it's going to
22 bankrupt us, and we currently have an application pending for an
23 operating capital increase.

24 MS. IVES: Okay. I'll do that.

25 MS. GREEN: It would bankrupt you, completely wipe out.

26 CHAIRMAN SMITH: Yeah. Okay.

1 MS. IVES: Any other question? No? Okay. Thank you.

2 CHAIRMAN SMITH: Thank you, Sharon. So, is there an issue
3 with the way that this is written or done or anything? Is this
4 something that we need to put back on the agenda to go into it fully
5 or?

6 MR. VANCE: I don't think so. During COVID, when I was the
7 director, we got a ton of these and I would have them out the same
8 day.

9 CHAIRMAN SMITH: Yeah. Okay.

10 MR. VANCE: [Indiscernible]. Historically--

11 MS. CASTAÑUELA: Very helpful.

12 MR. VANCE: --the main reason was like--we need to build a
13 new roof or something. So, they'd ask for any capital increase or
14 distribution waiver. But yeah, it's--

15 CHAIRMAN SMITH: That will protect her, the distribution
16 waiver.

17 MR. VANCE: Yeah, these are very common.

18 MS. GREEN: And your default to 50,000, that's much more
19 reasonable than \$15.

20 MR. VANCE: Well, so I don't think the default, so it says
21 it's equal to your average expenses as long as it doesn't exceed
22 50,000. But the director can allow it to exceed 50,000 based on a
23 request showing that it's necessary to facilitate some further goal of
24 the organization.

25 MS. GREEN: But she wouldn't know she would have to have that
26 problem until she already had it. So you can't--

1 MR. VANCE: Right. At which point, that's why you would file
2 a waiver--a waiver from a charitable distribution. You'd realize--I
3 don't have the money here. So you'd request the waiver so we don't
4 have to distribute this money for this month. At the same time you
5 would request an increase in your operating capital limit.

6 CHAIRMAN SMITH: Okay. Alright, any other discussion on
7 that?

8 MR. VANCE: And I will say, so the waiver for charitable
9 distribution does require a credible business plan. So, the waiver for
10 the operating capital does not. Let me look here real quick. Yeah, we
11 changed this years ago that it was like your first waiver, it's your
12 only waiver request within three years, I think it is, it's presumed.
13 That's what I'm worried about. It's only for proceeds.

14 Yeah, during COVID--so under COVID they were granted based
15 on force majeure, which was that the governor's office closed
16 everybody down so they couldn't possibly make money. So those were
17 just granted as fast as I can get them out. If it's for a business
18 reason, I mean this isn't a force majeure--this isn't a hurricane or
19 anything like that--for a business reason, then they're required to
20 submit a business plan. Application for a waiver under (b)(1)--yeah,
21 okay. So, an application for a waiver must include the reason for the
22 request, an explanation how compliance with this requirement is
23 detrimental to the organization's existing or planned purposes, the
24 specific calendar quarter or license year for which the waiver is
25 being requested--so I think that does go backward--and either the

1 following: a credible business plan or, if the request is due to force
2 majeure, documentation from outside sources supporting force majeure.

3 So, because this is a business-based request, it will
4 require a business plan. A credible business plan may, but is not
5 required to, include the following: the specific activity or
6 activities the organization intends to undertake, a timeline for
7 undertaking the activities that is reasonable in light of the waiver
8 period request, the cost of undertaking the activities and how those
9 costs will be managed, whether the activity or activities may
10 reasonably be expected to increase the revenues of the organization, a
11 description of the expenses, if any, that would be avoided or reduced
12 during the period for which the waiver is applicable, and an
13 explanation of how the proposed activities will allow the organization
14 to correct its financial difficulties to ensure their operations
15 result in proceeds. Criteria--

16 So--and then this thing we added a couple of years ago, a
17 business plan will be presumed credible if the application is the
18 organization's first application for the waiver of the net proceeds.
19 Yeah, so that only applies to net proceeds. So yeah, you'll have to
20 submit a business plan for the waiver of a charitable distribution
21 requirement, and LaDonna will have to evaluate that and determine if
22 it's credible in light of all those factors and whatever other
23 information you provide. And then, at the same time, you'll submit a
24 operating capital increase request that will be determined based on
25 the necessity.

1 MS. GREEN: But Tyler, how would you build a business plan
2 around the fact that if you gave away every single penny in your
3 checking account, you'd be bankrupt.

4 MR. VANCE: I think that's it.

5 MS. GREEN: There's no business plan for that except--the
6 capital should not have been \$15 to start with.

7 MR. VANCE: That's what the business plan is. In the old
8 days, business plans, sometimes we'd get an email with two sentences.
9 Sometimes we'd get an Arthur Andersen laminated binder full of things
10 and there's no guarantee either way. So it's just, it's--

11 MS. GREEN: But that wasn't her fault.

12 MR. VANCE: --it's purely out of discretion. Yeah, you just
13 say, just explain it. Look, we were closed. If I spend all this money,
14 we're going to be out of business. That's a pretty good business plan
15 to me. Right? If I spend this money, I'm going out of business, so--

16 MS. GREEN: \$15 can't [indiscernible]

17 MR. VANCE: I'm requesting that I don't have to distribute
18 this money in order to allow my organization to continue functioning
19 for the next several months. And so that in the long run, it benefits
20 the charities. I think this one is pretty simple, really.

21 MS. CASTAÑUELA: Sharon, it's form 136. You can find it on
22 the website and it includes a list of the criteria that'll be
23 considered for your business plan. That should help. I want to say
24 that I received that form from Croatia, from Vivian, who is
25 vacationing, but listening to the meeting.

1 MS. URIEGAS: Thank you, Vivian. Hang up and go to the
2 beach, Vivian.

3 MS. COHN: Hello.

4 MS. URIEGAS: Have some scallops. Those are the best in the
5 world, just so you know.

6 MS. COHN: Thank you.

7 CHAIRMAN SMITH: Hopefully that's a very unique problem.
8 Sorry. Hopefully that's a very unique problem and hopefully we can
9 help you with that if we can. I would venture to say if that's
10 something that doesn't happen very often, is that something that
11 happens a lot?

12 MS. CASTAÑUELA: I haven't seen one in a while.

13 CHAIRMAN SMITH: Yeah. Okay, good. Good, good, good. Okay.

14 MR. VANCE: So here's another section from the statute--it
15 says, the commission shall adopt rules allowing an organization to
16 retain the maximum amount of operating capital, which is 50 grand,
17 provided if the organization has conducted bingo for less than one
18 year--so that's the new guy--experiences circumstances beyond the
19 control, including force majeure, but not necessarily--that
20 necessitate an increase in operating capital and then they provide a
21 credible business plan for the conduct of bingo or for the
22 organization's existing or planned charitable purposes that an
23 increase in operating capital will reasonably further.

24 CHAIRMAN SMITH: Got you. Okay. Thank you. And any other
25 discussion on this?

26 AGENDA ITEM IX

1 CHAIRMAN SMITH: Alright. We will move on to item number
2 nine, to one of our favorite items, setting the date for the next
3 meeting.

4 MS. CASTAÑUELA: So the next meeting is scheduled for
5 Wednesday, October 2nd, 10 o'clock in this building, with the
6 commission meeting the next day, Thursday, October 3rd.

7 CHAIRMAN SMITH: October 2nd, you said?

8 MS. CASTAÑUELA: Yes.

9 CHAIRMAN SMITH: Sounds good to me. And do we know when the
10 next commission meeting will be?

11 MS. CASTAÑUELA: The next day, October 3rd.

12 CHAIRMAN SMITH: I didn't hear you. Okay. Alright. Alright.

13 AGENDA ITEM X

14 CHAIRMAN SMITH: Moving on to item number ten, then. We will
15 now call this meeting adjourned. Thank you very much for coming.

16