

TEXAS ALCOHOLIC BEVERAGE COMMISSION
COMMISSION MEETING
TUESDAY, DECEMBER 17, 2002

The Texas Alcoholic Beverage Commission met on this date at 5806 Mesa Drive, Suite 185, Austin, Texas. Members present: John T. Steen, Jr., Chairman; Gail Madden and Kel Seliger, Members. Staff present: Rolando Garza, Administrator; Jeannene Fox, Acting Assistant Administrator; Lou Bright, General Counsel; Greg Hamilton, Chief of Enforcement; Denise Hudson, Director of Resource Management; Debbie Dixon, Seller-Server Training and Gary Henderson, Information Resources Department. Visitors included: Robert Sparks, Licensed Beverage Distributors, Inc.; Alan Gray, Licensed Beverage Distributors, Inc.; Fred Marosko, Texas Package Stores Association; Rick Donley, Beer Alliance of Texas and Randy Yarbrough.

The agenda follows:

10:00 a.m. - Call to order.

1. Approval of minutes of November 25, 2002 meeting; discussion, comment, possible vote.
2. Administrator's report:
 - a. discussion of staff reports;
 - b. recognitions of achievement;
 - c. discussion of management controls;
 - d. update on licensing audit; and
 - e. ethics update.
3. Fiscal stewardship of agency; discussion, comment, possible vote.
4. Public comment.

Announcement of executive session:

5. The commission will meet in executive session to consult with legal counsel pursuant to Texas Government Code, §551.071, regarding:
 - a. pending and anticipated litigation against the agency and personnel complaint investigation; and
 - b. will meet pursuant to Government Code, §551.074, regarding personnel complaint investigation and evaluation of the administrator.

Continue open meeting

6. Take action, including a vote if appropriate on topics listed for discussion under executive session.
7. Adjourn.

The meeting was called to order at 10:25 by Chairman Steen.

MR. STEEN: I am going to call to order the meeting of the Texas Alcoholic Beverage Commission. It's ten twenty-five. I apologize. We should have begun the meeting at ten o'clock. I left San Antonio at eight o'clock and was making good time and ran into a horrendous traffic problem. Around Slaughter Lane, the traffic just came to a stop. It turned out that coming

into Austin, three lanes going north bound, they were repaving two of the lanes, so all the traffic was going into that one lane. Anyway, I apologize.

We will begin with the approval of the minutes of the November 25th meeting.

MS. MADDEN: I so move.

MR. SELIGER: Second.

MR. STEEN: Any discussion? All in favor, say aye.

MS. MADDEN: Aye.

MR. SELIGER: Aye.

MR. STEEN: Aye. Motion carries.

Administrator's report, Mr. Garza?

MR. GARZA: Mr. Steen, Members, the first thing I'd like to bring to your attention is the need for us to finalize your plans for the January meeting. We had a discussion last month about the possibility of bringing you into Austin on January 13th, the day before the session. I think the discussion left off that you all would entertain that suggestion and then we would finalize that at this meeting today.

MR. STEEN: What's the date again?

MR. GARZA: January 13th, which is a Monday. We would have that at the standard time which would be one thirty.

MR. SELIGER: That's fine.

MS. MADDEN: Okay.

MR. SELIGER: Sounds like that's all right with everybody.

MR. GARZA: We will proceed along those lines.

By way of an update, Mr. Chairman, you were down in San Antonio last week when we held the FAS press conference with First Lady Perry and several members of the local community and the media there. I thought it was an effective campaign. Last week, we finished the mail out of 37,786

packets of information that went out statewide. A lot of people participated in this campaign, certainly members of the industry are here today that helped endorse and support that educational effort which we are thankful for and several organizations, the Texas Medical Association, March of Dimes, and a whole host of state agencies.

At the risk of singling one individual out, I've got to tell you I'd be remiss if I didn't ask Debbie Dixon to come forth. A lot of people made this campaign possible, Members, but I believe that Debbie was the one person that coordinated this whole thing. She facilitated meetings among the different partners. She was able to get staff from every department of the agency working in there diligently for hours last week stuffing 37,000 envelopes and making this possible. I just wanted to bring her up and acknowledge her fine work and to thank her publicly for her dedication to this project all the way through.

MS. MADDEN: Thank you so much. That takes a lot of effort and we sure appreciate it. You probably didn't know that was coming. It was probably a new project for you, wasn't it?

MS. DIXON: I had a feeling. We have a great staff here and everybody just chipped in.

MS. MADDEN: Thank you for your leadership in that.

MS. DIXON: Thank you.

MR. STEEN: Ms. Dixon, you did an outstanding job. Can you tell us some of the people that helped you because it really looks like a lot of work went into that.

MS. DIXON: Just about every department did rotating shifts, and some departments had 100 percent participation, but each department had somebody in here constantly. We had this room filled. At one time, there were 21 people in here. We started on a Friday and finished before ten thirty on the day of the press conference, and that's when the press conference started. So, we hit my deadline. That was what I wanted, was to get them out before the press conference. I couldn't have done it without everybody's effort. We definitely have a great group of people and they chipped in; great spirits, lots of humor and we got it done. I appreciate the opportunity to do it because I got to meet everybody in the agency and it was great.

MR. STEEN: Thank you.

MR. GARZA: Along with Debbie, Jeannene Fox also spent a good deal of time getting

meetings together and working with folks and contacting industry members and coordinating some of the important elements of this campaign. I want to thank Jeannene for that effort, also.

In the human resources area, I would bring to your attention that we have extended an offer of employment to 23 new agent trainees and they have been accepted. I believe they will report in early January to begin their in-service academy. We will station seven of these new members in Houston; four in Dallas and three in Odessa; two in Amarillo; two in Corpus Christi; one each in El Paso, Waco, Longview, Austin and San Antonio. Those will be new members of the agency's staff who will be joining us in the enforcement division come January 2003.

Also, one of the activities that we find ourselves busy with this time of the year centers on some of our public forums that we are scheduling and holding across the state. To date, we've already held one in Sugarland and one in Arlington. We will be holding one in College Station and Odessa today. Mr. Seliger, we will be in Amarillo on the 18th for a public forum in your community and, on the 19th of December, we will be holding forums in Lufkin and Houston. These are for the express purpose of giving members of the community, any license or permit holders and any citizen who wants to come out and express any concerns, questions, suggestions, criticisms of our services, programs and activities. We find it's a valuable tool for staying in touch with the people we serve.

I would also tell you that the annual report project that we spoke about last meeting has begun. Don Gentry has, in fact, agreed to help us out with this project. I have shown you all a very rough draft of some of the preliminary work that he and Jeannie Miller, a member of our human resources staff, are working on. We expect to complete this project in time for distribution at the start of the legislative session and will be providing you a final draft of a copy probably within the next couple of weeks for your review. We welcome your input and comments on that.

Lastly, one of the important projects that we talked about last meeting centered on an audit done by Mr. Gregorczyk and his internal auditors that centers on our licensing activities. I know, Mr. Seliger, you had an opportunity early this morning to meet with Ms. Hudson, Mr. Guenther and Mr. Johnson and several other staff members for a report and update on this, so I will defer to you in terms of what happened at that meeting.

I will just tell you all that the audit to date has included interviews with several key staff here at headquarters. The auditors have done surveys out in the field with some 64 field personnel with a response rate of over 50

percent to date, which they are very elated over and, hopefully, we will get more people to respond to that. Of the 133 licensing services, we've had responses already from about 30 of those people as part of this audit, and also they have visited seven field offices, including McAllen, San Antonio, Austin, San Angelo, Abilene, Fort Worth and Houston, and they are in the process of collecting the data and finalizing some of the copy for preliminary drafts of this report. I know you will be looking anxiously for this audit finding. I know Mr. Seliger has taken the time and will be spearheading some of your involvement with the audit development and the audit finding.

That's all I have, Mr. Chairman.

MR. STEEN: Are you through with your administrator's report?

MR. GARZA: Yes, sir.

MR. STEEN: Two (e) says "ethics update."

MR. GARZA: That is Mr. Bright's presentation which he has prepared and is ready to deliver this morning.

MR. STEEN: Good. Thank you.

MR. BRIGHT: Good morning, Mr. Chairman and Members. How are you? It is my pleasure this morning to speak to you about our ethics program. You all probably think this is just another staff report. In a way it is but, for me, it's kind of a historical day because, as you might guess, I have frittered away the flower of my youth delivering various messages to various audiences and I have never yet punctuated my perorations with power point. We've got these lovely plasma screens here with us and it seems so sinful to leave them dark, that with the help of the prince of power point, Sam Smelser, we developed some slides. Mr. Henderson has sworn a holy oath that it's going to work during the course of my presentation, so we will see what we see.

We are talking about our ethics program and the emphasis on that is the word "program" rather than the word "ethics," because it's not my intention here today to talk to you about what our ethical commands are or what it takes to be an ethical public servant, but rather to talk about the program that we have here at TABC. You have materials in front of you. We are not really talking about being good here this morning. We are talking about getting good at being good and how we go about doing that here at the TABC.

If you talk about a program and ask yourself about a program, one of the first things to say is, of course, what's the point? The point of the program, of course, are our ethical goals. We have two primary ethical goals here. As you know, all of us public servants live our professional life enmeshed in a web of rules and statutes and regulations that govern our conduct. It describes the parameters of what we can do and what we must not do, so our first goal is to communicate to ourselves and the other members of our organization the command, "obey the rules," and we have a bunch of rules that, like I say, govern our conduct. An important point to bring out, I think, that it is at this juncture in our ethical life that we as individuals, as an organization, and certainly me as the ethics advisor, are presented with a certain challenge.

There is a quote that has stayed with me for a number of years now. The quote is this: "America's habit and frequently America's nightmare is to trade ethics for law." That quote puts its finger on something that we intuitively know, and that is that we can scrupulously obey all the laws and all the rules and all the regulations that apply to us and yet still not be very good people. Being ethical, or the process of becoming ethical, is actually twofold. It's obey the rules and do something else. When you think about it, describing and quantifying that something else is not so easy to do. You don't have to take my word for it. If you think about it, the greatest minds in western and eastern civilization have spent the last 25 centuries or so busily scribbling books and filling our libraries up with an effort to describe what that something else is to be ethical.

I've studied about that a good bit and tried to think of the best way to describe it. Somewhat to my surprise, I eventually concluded that at least as good a way of describing that something else as anything is a statement that I used to hear from my sweet little mamma about every 20 minutes when I was growing up, and it used to really aggravate me and that statement is, "Hold your head up high and act like somebody!" My little mamma, back in those years, was pretty long on command and pretty short on explanation. I eventually figured out that what she was trying to say to me is the same kind of thing that we are interested in saying to ourselves and to our colleagues, and that is wherever you go, whatever you do, whatever price you have to pay, you need to behave in such a way as to act like a person of integrity and honesty. To use words that we don't use in our society very much anymore, to act like a person with honor and dignity. So, the major goals of our ethics program here is to communicate that idea to ourselves every day and to the people that we work with.

We do that here in three primary ways and us, being a bureaucracy after all, the first way is the things that we put down in writing. The first thing

we put down in writing is our ethics policy which, conveniently enough, is Attachment A in the materials in front of you. Our ethics policy does a couple of things and first under the, “Hold your head up high and act like somebody,” our ethics policy states pretty clearly our intention to conform to and adopt the highest standards of ethical behavior and integrity. Under the heading of “Obey the Rules,” our ethics policy establishes our minimum levels of conduct with regard to the kinds of things that we are interested in in the conduct of public servants, being conflicts of interest, gifts and benefits, use of government resources and political activity. So, you can look through our ethics policy and it lays those kind of things out.

If you read any in ethics at all, one of the things that you learn is that every ethical code worth its name has a commentary, and we have a commentary as well and that is Attachment B in front of you. The way that commentary works...

MR. STEEN: Mr. Bright, where are those attachments?

MR. BRIGHT: They should be behind the administrator’s report material, behind the blue page under number two.

MR. STEEN: Thanks.

MR. BRIGHT: Here’s how our commentary works, if you open up our ethics policy on our spiffy new intranet that Mr. Henderson has put together, and then if you click on the topic headings of the ethics policy, behind that topic heading will be some commentary about that policy, and that commentary is internet resources. For example, it gives web sites devoted to ethics and codes of conduct for various associations of public employees like the Sheriffs’ Association and the American Society for Public Administration. It gives the statutory provisions behind those standards in our ethics policy. It gives at least some initial discussion about the kinds of habits and commitments that we must adopt if we are to live a life of honor, integrity and virtue and all those good admirable things. We, of course, have personnel policies as well. Those personnel policies forbid the kinds of behavior that we think of as unethical with regard to discrimination, retaliation, dishonesty, rudeness, the general things that we don’t want people to do, coveting thy neighbor’s ox and those kinds of things.

The second way that we go about carrying out our ethical program is through training. We talk to each other a lot about ethics. We deliver our training in our new employee orientation, our new agent schools and through regular in-service training. As you know, we usually do a major

training sweep every year throughout the state and train our agents and employees on a number of different things. We try to add ethics training to each one of those, some component of ethics to keep that as a topic that's in the front of our mind and in the front of our discussions. Those training sessions generally focus on the basic rules, obey the rules and what I think of as kind of problems in moral reasoning. One of the attachments that are in front of you there are a couple of hypothetical fact situations about things that face at least our enforcement agents pretty regularly. The point of those hypothetical situations is to use them as a training tool to engage in some kind of discussion about the moral consequences of decisions that we make.

I don't want you to be misled that we think something that we don't, in fact, think, because the grim truth of the matter is that this agency won't be any good and it won't have any hope of being better just because we've drafted up a shiny set of policies or because Lou Bright or Rolando Garza or anybody else delivers a spiffy speech once or twice or three times a year.

The way, in fact, that we become ethical or pursue our ethical goals is through how we conduct ourselves in our discussions and the way we go about making the decisions that we make here at TABC. I will give you an example of that. I am routinely asked, as the ethics advisor, for opinions on particular issues. "How should I behave in this situation? May I take this outside employment? May I engage in this kind of behavior?" I have done that, if memory serves, on occasion for each of you, and I do it regularly and routinely for our employees as they ask. One of the things that's important about that process, though, is to not just deliver a result or a judgment, "Yes, you may" or "No, you may not," but to be at some pains to explain the whys of that judgment because being ethical and being an honorable person is about the way we go about engaging in what Thomas Aquinas would call "right reason." So, we do that. We also do that with regard to the routine decisions that we make in managerial and regulatory things. We are at some pains to explain to others what we think of as the justification for our decisions, and that is when Mr. Garza decides something, or the executive staff decides something, the answer quite typically is not because we said so or because we think that's what's best, but to explain that our answer is in some way justified by the principles that we think we are supposed to be pursuing here, impartial adherence to the statute, those kinds of things.

Of course, there never was a program designed by people that couldn't get better and so we have given some thought to how we can get better here, one of the ways being better training methods. Of course, we can always

adopt new and spiffy techniques like our visual aids here to train better. Our training division has used, in the past, things like popular movies to stimulate and provoke discussions about ethical issues. We hope in the future to be able to invite guest speakers in to speak to us about ethical topics, those kinds of things. We are giving some consideration to following the example of our friends at the Texas Department of Criminal Justice, and on our intranet developing and providing some kind of on-line ethics course, a series of questions for our employees to take. We are thinking, to some degree, about creating an on-line chat room for our employees to engage in on our intranet. I don't know if that would be denominated as - quote - the ethics chat room, but it would be designed, we hope, with a view towards having our employees talk about what is good, what is not so good about TABC, how we can get better, and that is fundamentally an ethical inquiry. We think that chat room and broadening the scope of our inter-agency discussion would help us become better.

MS. MADDEN: Do they do that in the private sector?

MR. BRIGHT: You mean on-line chat rooms?

MS. MADDEN: Yes, like corporations?

MR. BRIGHT: I believe they do. Other agencies have tried message boards and on-line chat rooms for their employees. My colleagues have reported mixed results of those. As we develop that or kind of get the time and attention to step further into that, one of the things we would do, or at least I would do, is take a more focused questioning of my colleagues in other agencies to see what their experience has been, what had worked, what had not worked. Generally speaking, we think that is a good idea if we could make it work.

Now, talking about a program, of course, as I mentioned when I first started, we are not talking about ethics so much and yet you have to admit this is a topic that lends itself kind of to noble pronouncements and noble sentiments, and I've kind of cudgeled my brain to think of a closing sentiment here from the great minds like Aristotle or Kant or James Madison or somebody but, in the end, our ethics program isn't really about great minds. It's about those folks who labor endlessly in the vast vineyards of the state. So, I decided that I would end my little presentation with a quote that I picked up a few years ago that I happen to believe in and, appropriately enough, that quote came from some anonymous bureaucrat which finishes my presentation.

I will be happy to answer those of your questions that I can and try to

artfully dodge the rest.

MS. MADDEN: Why don't you read your quote so we can get it in the minutes.

MR. BRIGHT: "Being ethical is not a status but a process. Our level of commitment to this process will be measured by the quality of justice in our society," from some anonymous bureaucrat.

Thanks for your attention.

COMMISSIONERS: Thank you.

MR. STEEN: Mr. Bright, we've got this policy, how can we be assured that all our employees have read this policy?

MR. BRIGHT: We cannot. We cannot, under the old saying that you can take a horse to water but you can't make him drink. We talk about this policy at least at some point with every employee as they enter this agency. We have conducted training throughout the agency regularly about our policy. What I think happens most, however, is that as we address issues as they come up in the context of our daily lives we exercise some care, I think, here to relate our conversation back to our policy as we grapple with the issue what is to be done here or how should we decide this or how should we deal with the crisis of the moment? At some point in our conversations, particularly among the executive staff and I think to some degree among our other supervisors at this agency, we try to be careful, generally speaking, to say, "I think we ought to do this in response to this situation." Part of why I think that is because remember we have a commitment in our policy. We have a general ethical commitment. So, we have those kinds of discussions that don't happen every hour of every day in this agency, be assured, but I do think they happen with more frequency in this agency than any other organization I've been in, certainly more than I have in the United States Army.

MR. STEEN: Do you have situations where someone violates the ethics policy and when you are dealing with them, they say, "I had no idea I was doing anything wrong"?

MR. BRIGHT: No. Generally speaking, no. We have situations in which we are dealing with the ethics policy the general response that you will get from a malfactor is, "Well, yeah, but I didn't think it mattered" or "I didn't think it was that big a deal" sort of response. I've gotten very little response in those kinds of things. Typically, they are disciplinary actions. "I just flat didn't know that was a rule." Let me give one caveat on that. There are

questionable situations, that is there are fact situations in which the application of the rule is not clear. For example, remember one of the things that governs all of us is that we may not have a financial connection with a person engaged in the alcoholic beverage business. Well, our attorney general has defined financial connection very broadly under our statute. He has also, in an earlier opinion, defined “engaged in the alcoholic beverage business” very broadly. So, you can have some questions about which reasonable minds can disagree about whether or not, for example, my 16-year-old son can take a job bagging groceries at the local HEB. So, sometimes in those kinds of things, we get employees who will say to us in that kind of situation, “Yeah, I knew about the policy. I just didn’t think it applied here,” then there is a discussion about whether it does or doesn’t.

The rules that bind us, the kind of flat rules that are in our ethics policy, I think, are generally well known, because they are generally pretty simple, don’t lie, don’t cheat, don’t steal, whatever comes to your hand in the way of property is not your’s, don’t act like it is, don’t treat it like it is. I think those rules are generally well known, which is not the same thing as saying that you don’t have people who will cut a corner every now and then. Generally speaking, ethics problems have not been a big problem at this agency. We have had some difficulty with that, and some people have been encouraged to pursue their career elsewhere because of ethics problems, but that is sitting down and dealing with the question of, “What are we to do with this clear violation of our ethic’s policy” is a relatively rare event in my life.

MR. STEEN: How often do you get inquiries from employees?

MR. BRIGHT: I don’t measure them. I would say that in some way, at least under my expansive definition of what the word, “ethics” means, I am talking to somebody at least once every month and a half to two months. “Can I do this? Should I do that?” I have said my expansive definition of “ethics.” One of the questions that I get that I think is an ethical question is, “I’m having an awful lot of trouble in a managerial way with my employee” or “I’ve got an employee that I can’t seem to establish a good contact with. How should I go about doing that? What do you think?” One of the things that I have trained on in the past is kind of leadership and management kind of things. We might call that conversation a management skills conversation. I think of it as an ethical conversation, how are we to treat each other.

I have one waiting my judgment right now. It is a question about whether an employee can take a position with a local community college in a

program teaching about various things. That community college also gives seller-server training, and I have not set down and thought about that question yet. It was put to me several days ago and I haven't gotten to it yet. That's the kind of thing that comes up fairly routinely. The good news there, I think, is - I swear I'm not patting my own back - our employees are pretty aggressive and pretty good about knowing when to ask a question. They have no reluctance to ask somebody to ask me, generally by e-mail, sometimes by phone, what I would think of as their warning system that they have in their mind, "Before I make this decision maybe I need to have an ethical check done on it." The sense I have among our employees is that we've got a good capacity for that kind of question. One of the things that I've said to my clients about 9,000 times is, "Much better to hear me say to you, 'you really didn't need to call me about that,' than to hear me say, 'gee, I wish you would have told me about that three months ago'."

MR. STEEN: Of course, I've asked you questions and you mentioned the other commissioners have, you get inquiries up and down the organization? Anybody can call you that has a question?

MR. BRIGHT: You bet. In whatever communications that I make to employees, or that my assistant, Suzanne, makes to employees, or the other managers and staff when they are talking to employees about various issues, is to put that message out in as an impactful way as we can. "Call me, call me, call me, call me anytime." I'm always there.

MR. STEEN: Any employee feels free to call you? They don't have to go through anybody? They can just call you directly about it?

MR. BRIGHT: Yes, sir. We have a chain of command here and, of course, you have to use that in terms of predictable systems and processes. If, for example, the employee presents a question to me like this - "I think my sergeant wants me to do such and such and I think that's just wrong, what do you think, Lou?" One of the things that I can't do is say, "I think it's wrong too, so you tell your sergeant I said you are not going to do that," because I don't get picked to run district offices. What I do is handle that back through the chain of command. If it's in the enforcement division, I would talk to Chief Smelser or Chief Hamilton and say, "I think you've got an issue here. Would you guys pick it up and let me help you and advise you along the way?" Yes, sir, every employee calls me. In one connection or another individually, I've spoken to probably well over half of the employees here.

MR. STEEN: Okay. Any other questions?

MR. SELIGER: No.

MS. MADDEN: No.

MR. STEEN: Thank you very much.

We move to fiscal stewardship of the agency. Ms. Hudson?

MS. HUDSON: I'm going to ask Gary to come up. We are going to show you our internet. We have a new site, a new main page that we are going to be unveiling. Why don't you bring up the old one first and then we will take a look at the new one.

We took a look at the internet usage this month. As you can see, we are having a tremendous increase in the number of hits. It almost doubled this month. We think a lot of that is from the new forms that they have put out there, the new licensing forms.

At this time, Mr. Henderson demonstrated the old and new internet site which will go on-line today. Ms. Hudson reported it is the goal to make the site easier for people to find information and for people to contact the agency. Another demonstration was done of the agency's videoconferencing equipment by dialing into the Longview and Lubbock district offices.

MR. SELIGER: How mobile is the videoconferencing? Can you do the public forums so people here can watch what's going on in Longview or El Paso?

MR. HENDERSON: Yes. All the TV's are mounted on mobile carts. They all come with a 32-inch TV and some have VCR's on them that record. In August, we did an enforcement training which was located at the Odessa College. We took our equipment, moved it over to the college, and was able to stream it back. I believe Rolando and Greg and Del Drake all participated in that training from here at headquarters.

MR. HAMILTON: One of the other things that we are doing here at headquarters is when it's time to evaluate the captains, we are sending them their evaluation and we are doing it via videoconferencing. That's saving us money.

MS. MADDEN: So, they used to have to come here?

MR. HAMILTON: Right, or we would go there.

MR. HENDERSON: We recently completed our first legal hearing towards the end of October. The SOAH judge was very pleased with what he saw and is anxious to get on board and get their agency up and going so he wouldn't even have to

travel over here. We did a trial down in the McAllen area.

MR. SELIGER: Is that the State Office of Administrative Hearings?

MR. HENDERSON: Correct. Everybody has been pleased with it so far. We've had to work through a few glitches here and there, but we have managed to do pretty good. In October, we also did four video conferences with the licensing schools that Jeannene's group puts on and we also web streamed it. We ended up with 70 something people trained from the one demo that we did.

COMMISSIONERS: Thank you.

MS. HUDSON: Gary has done a wonderful job on getting this all set up. We have seen about 38,000 dollars in cost avoidance for travel so far using the equipment.

The other thing that we took a look at was our fleet. As we go into session, we will be asking for some more cars this next time. Our fleet is in very good shape. We will be buying more cars this spring to replace some. We are right on schedule for that. We hope that we will be able to continue the replacement rate that we've had in the past. Thank you.

MR. STEEN: Thank you very much, Ms. Hudson. Any questions?

MS. MADDEN: No.

MR. SELIGER: No.

MR. STEEN: Public comment? I have no cards up here. Do we have anybody that would like to speak on anything?

Before we go into executive session, Mr. Garza, I had an interesting conversation with Bill Lyons who owns Casa Rio. You know, we had the FAS campaign kick-off there. He was telling me about working with the San Antonio office to try to streamline some procedures on the barges that they take out in the river. Are you familiar with that?

MR. GARZA: Somewhat familiar with the situation, Mr. Steen.

MR. STEEN: I just thought the other commissioners would like to hear about that. I think it's a real good example of our working with industry to try to attack this paperwork problem. Ms. Fox, do you know about it?

MS. FOX: When we originally passed the catering rule, probably 10 years ago, we worked real closely with those people along the riverwalk because that's a pretty unique situation within Texas in trying to come up with a way to make their business operations fit with what the statute requires. We came up with our repetitive catering certificates. It's a good time now to relook at that. That business has grown. The barges are in use a lot more, so it takes a lot more of their business time to do the forms and report to us when they are being used.

I know that the local office is working with them. We also have a rule request pending to look at our rule and to make some adjustments to it where they won't have to do as much daily...actually, they have to report once a month how often their boats are going to be running and when they are going to be using those certificates. I think there are those who find it cumbersome to do it by paper, and we have talked about and looked at trying to do that on-line. All that is in the works. I don't have a definitive answer for you except to say we have a rule request pending, which will come before you once the staff reviews it and we know what we think about that and we also have procedural changes in the works, too. We are working on it.

MR. STEEN: Good. Mr. Lyons was very pleased with the San Antonio office and their cooperation. I just think that's good that we are trying to work with the restaurant industry.

The commission will now go into executive session to consult with legal counsel pursuant to Texas Government Code, Section 551.071, regarding pending and anticipated litigation against the agency and personnel complaint investigation and will meet pursuant to Government Code, Section 511.074, regarding personnel complaint investigation and evaluation of the administrator.

The commission convened in executive session at 11:12 a.m. and reconvened in open meeting at 1:08 p.m.

MR. STEEN: The commission meeting of December 17, 2002 is now back in open session. During executive session no votes were taken, no final decisions were made. There are no matters requiring commission action at this time.

Do I have a motion to adjourn?

MR. SELIGER: So moved.

MS. MADDEN: Second.

MR. STEEN: All in favor?

MR. SELIGER: Aye.

MS. MADDEN: Aye.

MR. STEEN: Aye. The meeting is adjourned.

The meeting adjourned at 1:09 p.m.