

TEXAS ALCOHOLIC BEVERAGE COMMISSION
COMMISSION MEETING
MONDAY, JUNE 26, 2000

The Texas Alcoholic Beverage Commission met on this date in Room 185 at 5806 Mesa Drive, Austin, Travis County, Texas. Members present: Allan Shivers, Jr., Chairman; John T. Steen, Member and Gail Madden, Member. Staff present: Doyne Bailey, Administrator; Randy Yarbrough, Assistant Administrator; Lou Bright, General Counsel; Jeannene Fox, Director of License & Compliance, Greg Hamilton, Chief of Enforcement; Denise Hudson, Director of Resource Management; Charlie Kerr, Director of Fiscal Services and Claire Myers, Special Projects. Present to receive certificates of service: Mike Kane, San Antonio Compliance and Dale Evans, Galveston Compliance. Visitors included: Alan Gray, Licensed Beverage Distributors, Inc.; Wade Spilman, Wholesale Beer Distributors of Texas; Tom Spilman, Wholesale Beer Distributors of Texas; Rick Donley, Beer Alliance of Texas; Robert Sparks, Licensed Beverage Distributors, Inc.; Jay Howard, DISCUS, Inc.; Sandy Kibby, Wright Distributing Company, Inc.; Jack Martin, TABLS; Fred Marosko, Texas Package Stores Association; Shannon Swan, Jenkins & Gilchrist and Mike McElhaney, Governor's Office.

The agenda follows:

1:30 p.m. - Call to order.

1. Recognition of agency employees with 20 or more years of service.
2. Approval of minutes of May 22, 2000 meeting; discussion, comment, possible vote.
3. Administrator's report:
 - a. discussion of staff reports;
 - b. recognitions of achievement; and
 - c. discussion of management controls.
4. Fiscal stewardship of agency; discussion, comment, possible vote.
5. Consider publication of proposed new rule 16 TAC §33.42; discussion, comment, possible vote. (Affiliation Between Wholesalers and Distillers)
6. Consider amendment to 16 TAC §45.106 as published in 25 TexReg 4269 on May 12, 2000; discussion, comment, possible vote. (Sweepstakes and Games of Chance)
7. Public comment.

Announcement of executive session:

8. Executive session:
 - a. the commission may go into executive session to consult with legal counsel regarding items 5 or 6 of this agenda pursuant to Texas Government Code, §551.071.

Continue open meeting.

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

The meeting was called to order at 1:38 p.m. by Chairman Shivers.

MR. SHIVERS: I'll call this meeting of the Texas Alcoholic Beverage Commission to order on Monday, June 26, 2000. It is one thirty-eight in the afternoon.

First, I'd like to recognize two employees. First is Mike Kane who has been with this agency for 30 years. He started as an Auditor I, and has advanced to his current position as regional supervisor. Mr. Kane has more experience than many other supervisors combined, and his length of service and experience contributes to the overall efficiency of the San Antonio region. Congratulations.

MR. KANE: Thank you.

MR. SHIVERS: Next is Dale Evans who started his career in December 1978 as an auditor in the Fort Worth compliance region. After a brief period with the Lottery Commission, he was rehired in 1995 for a position in Beaumont. Mr. Evans is currently in the Galveston office, consistently exhibiting leadership qualities and diligently performing his various tasks. Congratulations.

MR. EVANS: Thank you.

MR. SHIVERS: It's gentleman like these that make this agency the place it is. They provide the continuity and institutional memory that's so important to the efficient operation of this sort of agency.

Next is approval of the minutes from our May 22, 2000 meeting. Are there any changes? The minutes have been mailed to the commission.

MR. STEEN: So moved.

MS. MADDEN: Second.

MR. SHIVERS: All in favor, say aye.

MR. STEEN: Aye.

MS. MADDEN: Aye.

MR. SHIVERS: Aye. Opposed?

The administrator's report. Mr. Bailey?

MR. BAILEY: Mr. Chairman and Members, I'd like for Chief Hamilton to give us a brief report on the first of this year's power camps.

MR. HAMILTON: We just had our first TABC/MADD - and now I'm happy to say that DPS has come on board - we are doing those power camps. We had one at the beautiful campus of St. Mary's University in San Antonio, Texas. We had 525 participants there - law enforcement officers from around the state and also school teachers and concerned parents that were involved in this particular camp.

We've got one more coming up, which will be at TCU. We are expecting about 820 people there. The registrations are still coming in.

Up in San Antonio, the Spurs Foundation funded 75 students from the San Antonio area, and also the USAA helped underwrite some of the programs and meals.

Up in TCU, we will be having a delegation that will be coming in from the Bahamas, along with a member of the parliament. They are bringing 10 people, and they are hoping to take this camp back to the Bahamas and, hopefully, I'll be able to go up there and show them how to put it on - wishful thinking.

We are real pleased with the outcome of this past camp, and we are hoping that the one in Fort Worth turns out the same.

MR. STEEN: Chief Hamilton, tell me again how these got started.

MR. HAMILTON: The camps originated back in 1980 with a group called Texans War on Drugs. When they lost their funding, Mothers Against Drunk Driving took over the camps back in '93 and, along with that, another group called the Dare/Pal Group were putting on camps. MADD came over to us and asked us to come on board and assist them because we had been sending agents to the camps already, and they wanted us to be a partner in this camp. We gladly did it.

When I was at Travis County Sheriff's Department, I traveled during the summertime with Texans War on Drugs, helping out in facilitating the camps. This is something where we are able to show the people who we are, because one of the things we're finding out at the camps, people do not know who TABC is and what we do. This is a good way to get out there and let these people know who we are and how they can get involved in some of the programs that we are doing.

MR. STEEN: What do you expect the students to do when they go back to their communities?

MR. HAMILTON: One of the things that they do is they put together...when the students come, they come with a sponsor. The sponsor is either a coach, a teacher or concerned parent that's over some type of group at the particular school. They will put together some type of action plan on whether they want to address gang violence or if they want to address teen pregnancy. We have people that are putting on workshops specifically for that, and we'll have those people work with them and put together an action plan and go back to the community. Those particular individuals who have helped them will stay on top of them and see if they need any resources and how they are doing throughout the year. They will come back the following year and talk about what they have done and where they need to go.

MS. MADDEN: Are these just interested kids, or are they having some problems?

MR. HAMILTON: The ones that the San Antonio Spurs brought up there, some of those kids did have problems. We had a group out of Temple, Texas, where I think that the kids were made to attend that particular conference. I think the sponsor was doing community service, too. After the camp got started, all the kids at the camp, along with all the facilitators and staffers, just gathered around these kids, and these kids that have come from housing projects, that had never been to a camp before, they went back with an action plan. We plan on following up to see how they carry that out.

MS. MADDEN: He has a wonderful video, and it really catches the enthusiasm of not only the counselors and sponsors, but also the kids.

MR. HAMILTON: Last year, we had to force some of our agents to go to the camp because we were being a part of it. Now, they are knocking down the doors trying to attend. We had about 13 or 14, and they are trying to sign up for this next one. We told them we have other duties to do besides going to the power camps. It's not an eight to five job. They start at eight in the morning, and they will go until one-thirty that night. We try to keep them busy so they won't stray from the campus.

MR. STEEN: Chief, I commend you on that. That's great work.

MR. SHIVERS: Anything else?

MR. BAILEY: A couple of weeks ago, as you know, our former internal auditor has been selected to be the director for our fiscal department. In the process of

addressing the issue about how we would replace or fill that position, I contacted the Office of State Auditor, and they came over and visited with us and brought this with them. They said it would be a good document to share with you. It gives you some description about the auditing act and some of the things that the Office of State Auditor can do to help in the process of making sure that our internal audit is effective. I thought I would share those with you, let you look them over, and we can talk during the following weeks about any opinions or direction that you want to go on that.

In regards to the monthly report, you will find on your report that the enforcement division did its annual safe graduation/safe prom. They made appearances at about 644 Texas high schools and, during that exercise, they made 158 alcohol-related arrests.

Also, you will see that the compliance department, the seller/server training department, that is, has scheduled their training conferences around the state so that they can start bringing people up to date on the revisions of the seller/server training rules that you recently passed.

Finally, the resource management division has been busy. The purchasing section has finalized the grant and the purchase of the computerized record management that we've been telling you about. They are also very near hammering out the agreement between TABC and the U.T. School of Social Work to do the study on seller/server training that we've mentioned before.

That's pretty much my report.

MR. STEEN: On the internal auditor, when did Mr. Kerr change responsibilities?

MR. BAILEY: End of May.

MR. STEEN: Do we have a plan at this point to replace him?

MR. BAILEY: No. I think I've mentioned to each of you, there are some agencies that actually contract their internal audit function. That is one possibility. Another possibility is for a new internal auditor to be hired. We are open to suggestions. We would like to have some discussion. Maybe you'd like for us to put this on the agenda for the next meeting.

MR. SHIVERS: I think that's fine, but I would like for you to give us more information so we can ask some intelligent questions, such as what's the cost of having an

on-staff internal auditor versus a contract internal auditor, and what trade-offs we have to make in terms of coverage. If you have someone in-house, you presume you have a little more coverage than you do if you have a contract internal auditor. I'm not going to say that's true. That's the way I think it will happen, but I'm not real sure. Let's find out.

MR. BAILEY: I think representatives in the Office of State Auditor would verify that. They find that the agencies that have contract, their level of satisfaction varies widely. Some are very pleased with it. Some are very disappointed in it. A lot of it just depends on the contract and the people involved. I'll try to provide that information to you.

MR. SHIVERS: Let me ask Mr. Kerr a question while he's here, while we are on this subject. Charlie, it's my impression that you had a challenge trying to cover all the audits that you needed to cover on an audit plan and still respond to any other studies that we ask you to do. Is that a fair assessment?

MR. KERR: That's pretty fair when you have one person doing the shop by themselves.

MR. SHIVERS: With an agency this size?

MR. KERR: It's kind of hard right now to know how to compare the cost of contract versus in-house, but I think you, indeed, get more coverage with an in-house auditor than you would a contract auditor. But, I don't think the cost factor is going to be...you can probably get the coverage that you need based on the state auditor's criteria with a contract auditor, but it all depends on how much coverage you, as the commission, feel is necessary. The state auditors have set some criteria that they use to determine whether or not the coverage is sufficient. In most agencies that use contract auditing, you could probably get by with a single contract auditor that could do this agency based on the little bit I know about it at this point.

MR. SHIVERS: Give us some examples of the kind of agencies, prior to our next meeting, that use contract auditors as opposed to having their own auditors.

MR. KERR: I think the Banking Commission has contract auditing. I think Juvenile Probation. I believe the Animal Health Commission. I think there's about 13 or 14 agencies that use contract auditing.

MR. SHIVERS: Usually it's smaller agencies?

MR. KERR: Actually, I think the Department of Human Services uses contract auditing.

MS. MADDEN: Are we considered a large agency?

MR. KERR: No, we are considered a medium agency.

MR. STEEN: Mr. Kerr, at the beginning of the year, you set out a plan of action of things you are going to attack. What's happened to those?

MR. KERR: Those are on hold right now, since I've assumed this new position. I'm going to attempt to complete some of those assignments. Right now is a very bad time because we are right in the middle of the legislative appropriations request. I'm trying to learn everything there is in this new position. There may be some things that won't get covered for the fiscal 2000 plan. In a matter of fact, they won't be covered because there's no way I can get to all of them.

MR. STEEN: We want to try to go ahead and get something done on this. We don't want to wait three or four months or so and lose that much time on it. Could we be in a position to do something at the next meeting?

MR. SHIVERS: I think we can get enough advance information so we can give the administrator some guidance on what direction we think we ought to go in.

MR. STEEN: Mr. Kerr, what was the procedure when you were hired? Who hired you?

MR. KERR: I was hired when they passed the law. In other words, back in 1989, when they passed the Internal Auditing Act, I was transferred from what is now the compliance department - it was the auditing department - into that position, along with internal affairs.

MR. STEEN: Isn't it correct that this commission is supposed to directly hire the internal auditor?

MR. KERR: They are supposed to approve the hiring of the internal auditor, yes, based on the internal audit charter of this agency and also the Internal Auditing Act of 1989.

MR. STEEN: I thought that the administrator hired everybody but the internal auditor, and the administrator and the internal auditor are the two employment decisions that we are supposed to get directly involved in. That was my understanding.

MR. KERR: The administrator would hire the internal auditor with approval of the board, is basically how it reads.

MR. SHIVERS: I don't think that we are required to actually advertise for resumes and do all the weeding out in interviews. I think it would be fine if the commission wanted to go into executive session and interview the three top finalists or something like that and give the administrator our considered judgment on what his choice ought to be.

MR. BAILEY: I've never done this, either, so I'm seeking your advice.

MR. SHIVERS: Which, I think, would give the person that's hired - if we have an internal auditor rather than a contract auditor - a feeling that they are directly responsible to the commission which, in fact, they are.

MR. STEEN: That's good.

MR. SHIVERS: I don't have much appetite for screening a whole raft of resumes. I think I went through this during my previous stint here when there was a suggestion we hire a new administrator and advertise in national publications. I forget how many thousands of resumes came to a post office box with my name on it. I don't want to revisit that. I think we got seven thousand, and I'm not going to do that again.

MR. STEEN: Maybe we could give you direction at the next meeting and set as a goal by the August meeting to try to have somebody on board.

MR. SHIVERS: Okay. Thank you, Charlie.

MR. KERR: Sure.

MR. SHIVERS: Fiscal stewardship. Charlie, is that you again?

MR. BAILEY: As you recall, we are going to give a little bit of update each month on the governor's letter in regards to good fiscal stewardship. Our schedule called for this month to be talking about the LAR review and budget issues and our customers. Charlie is here and will make a brief comment. He presented you a report prior to the meeting and, after he's through, Claire Myers will make a short comment.

MR. KERR: I don't have a lot to report to you today. Next month is when I'll be able to get you a copy of the LAR, which will be our appropriation request for 2002-2003. I can let you know that that budget is based on a lot of

different things, mostly historical cost and past budgets that this agency has had before. We are going to be in a tight budget situation next year, for sure, and likely in 2002-2003, also, with the increased costs that are occurring on a regular basis in this agency which have to do with postage, rent and gasoline. Enforcement is feeling the crunch already on the gasoline prices. But, this agency does have a good budget process. We talk with all the division directors. We get their input into what kind of funding they are going to need to operate. I'm learning quite a bit about the process right now since I jumped right into the middle of this. But, I think as far as the fiscal stewardship that the governor's office is concerned with, I think this agency is probably in good shape there.

MR. SHIVERS: I'd like your thoughts next meeting on whether we should suggest to the legislature consideration of another way to fund this agency rather than through license fees and fines, and so forth.

MR. KERR: It certainly would be worth discussing, as we are finding out, if we don't increase our baseline budget, eventually this agency is really going to have to drop some programs or stop doing some of the stuff it's doing now, because it's just really getting stretched to the limit on its budget.

MR. SHIVERS: We can do things like Mr. Steen's suggestion of seeing if we can't get the legislature to require county clerks to advise us of disposition of cases that are filed and save some time for our agents having to go to the courthouse, and we can get some more manpower hours on critical tasks. Things like that, but there is a limit to how much of that we can do and still get the job done. We are just running out of money and people.

MR. KERR: And, part of our stewardship should be to look for those ways to save manpower.

MR. SHIVERS: There may be a more appropriate way to fund this agency, rather than the way we've been doing it.

MR. KERR: I'll have you some numbers in about two weeks on the LAR so you will have an idea of what we will be asking for, and I will also summarize some of the concerns that we have as far as coming up short in some of the categories that we are trying to fund.

MS. MADDEN: Will you do a briefing for each of us on the budget, a thorough one?

MR. KERR: We will do that, for certain.

MR. SHIVERS: Let me assure you that it is unlike any other budget you will ever see in your life.

MR. KERR: It will take some explaining. It's not the simplest process.

MR. SHIVERS: They have been trying to explain it to me for years, and I'm not sure I have grasped it to this day.

MR. STEEN: Mr. Bailey, just an overall comment on customer service. How do you think we are doing?

MR. BAILEY: I'd like to let Claire make a quick comment first, and then I will try to respond to that. Claire?

MS. MYERS: Good afternoon, Mr. Chairman and Members of the board. I sent a copy of our report on customer service and our compact last week. I don't know if you have had a chance to read over it or not, but it was also part of our appendix in our strategic plan.

This customer service initiative basically requires all state agencies to survey their customers in regards to seven quality dimensions, such as facilities, service timeliness, communication, complaint handling. We already had three surveys that we currently use, but they are geared towards each of our divisions. One for enforcement, one for licensing and one for compliance, and they actually look at the processes involved. So, we decided to go ahead and develop a fourth survey covering the required quality dimensions separate from each of the three division surveys.

We plan to survey once a year, after the first survey that we just sent out. We plan to do it once a year as part of our newsletter, which would go to all of the licensees and permittees, public officials, interested citizens. Anyone can join our newsletter mailing list.

The results from our survey, we had an overall satisfaction level of 83 percent with our licensees and permittees and 81 percent with the general public, which included individuals that did not identify themselves. The areas that we need to work on the most dealt with our internet site.

When Rolando Garza left in April, I inherited the e-mail and complaints@TABC, so I would receive all of the e-mails. It has helped me a lot because, as you know, I just started in September. Now that I'm receiving all of these e-mails, I have a chance to see what our customers are asking. A lot of them are just people who are interested. They are not

necessarily a licensee or a permittee, but they want to know how to obtain an application or what the application process is like. So, by going through and learning about the e-mails, and I've been tracking them and basically identifying key areas that we need to improve, and our goal is to add this information on to the web site. Many of them have gone to our web site, so we want to be able to provide exactly what they are asking for. That's part of our improvement efforts that we are working on currently.

Another area of improvement dealt with our complaint handling. A lot of the individuals stated that they don't know the process to file a complaint. We want to make sure that on our web site we have that clear and a direct link if they want to e-mail us with a complaint like on code violations.

The third area of improvement was with our e-mail replies. That's basically what I'm doing now. When I forward them to the specific department it deals with, they "cc" a copy to me, so I am able to track how many days since the individual e-mailed us and how many days later they received a reply. We are looking at that to make sure that once we receive the e-mails, that we are getting the information back to our customers.

Our compact is on our web site. It's been posted since the beginning of June. Basically, the compact is an agreement with our customers, stating who we are, what we do and it has key contact information. It lists our offices, lists where you can e-mail or where you can call. It also has all of our service standards, which was the only thing we had to change on our compact because we did not identify specific days or weeks. Basically, it says, if you send us an inquiry or a question, we will respond within three days. Those were the only additions to our compact.

MR. SHIVERS: Was your overall outcome weighted?

MS. MYERS: Excuse me?

MR. SHIVERS: The overall satisfaction of agency services, is that number weighted?

MS. MYERS: No, it's just straight down. For internal purposes, I am going to...I've tracked where they came from, certain areas like West Texas or certain district offices, and then I'm going to weigh all of the staff, because for staff there's three questions, and then satisfaction with service timeliness, it has five - to divide them up in looking at the areas.

MR. SHIVERS: You might want to recheck it. As I scan these numbers, in almost all categories the general public seems to be more satisfied than the licensees

and permittees and, perhaps, that's understandable since we don't regulate the general public. But, the overall satisfaction was higher among the general public than the licensees and permittees, and it just doesn't seem like it foots to me. Although the sample size is small, the differences are statistically significant.

MS. MYERS: I will go back through. I worked with Roy Hale with the software. We had statistical software to help calculate...

MR. SHIVERS: Some of these numbers were rather surprising, actually.

MS. MYERS: If you just glance at it, though, I made a note in the paragraph above, the results...like the e-mail, it's showing as 23 percent. That does not necessarily mean that almost 80 are completely dissatisfied because many of them were neutral. I have all of the results, but a lot of these, if you just glance at it, you automatically see only 23 percent are satisfied and the rest are dissatisfied, whereas, the majority were just neutral. They weren't satisfied or dissatisfied.

MR. SHIVERS: I find it interesting that 81 percent of the public finds our office convenient and easily accessible, but only 76 percent of the industry does.

MR. STEEN: How many e-mails are you getting?

MS. MYERS: It varies. I get at least 10 and above. Some days I receive more. Like today, it's Monday, so I'm receiving e-mails from Friday night all the way through the weekend. Usually it's a pretty high number. Today, I walked in and there were 18 e-mails. Other times, I've come in on a Monday, and I haven't received that many.

I talked to Debbie Dixon in seller training, and I received questions about seller training. I guess word is out now that you can become seller trained over the internet because one day I started receiving these questions and then I received multiple ones after that.

For the most part, the majority of them are in the same basic groups. They deal with how to obtain a licensing packet or how to find out about the process. A lot of them ask for clarification of the laws. It varies.

MR. STEEN: If someone sends an e-mail and asks for a clarification on the law, then we will reply to it?

MS. MYERS: Yes. A lot of times, they will request a specific section of the code. We

will find that section for them and say, “If you need clarification or you still do not understand, please reply and we’ll be happy to clarify.” Roy Hale has assisted me a lot and Brian Guentner in licensing. It’s been nice, though, because they “cc” me, so I am able to read what their responses are, and I’m learning so much from that.

MR. STEEN: I got a letter, like a lot of people did, from Southwest Airlines, and they were getting so many e-mails, they said they weren’t going to respond to them anymore. If you had a complaint or comment, you had to actually write a letter before they would respond to it. I hope we don’t get to that point.

MS. MYERS: Actually, we are in the process of having an immediate e-mail reply, so once they send it, it immediately replies back to them and says, “Your question or complaint has been received. Our service standard is three days to respond.” If they want to call someone immediately, we plan on including the 1-800 number, so they can pick up the phone and call them.

MR. STEEN: It’s manageable now. You are not having any trouble?

MS. MYERS: No. It’s great. Some of the questions I get, I couldn’t even imagine, but then when I receive the “cc”...and I’ve been keeping track in a folder, so I have them all in specific areas, like importing and exporting.

MS. MADDEN: Regarding the internet site where it talks about, “I was able to find helpful information on the TABC web site” and “I found the quality of the TABC web site to be satisfactory,” it seemed a little bit low. But, then, you were talking about the e-mails, and you were saying with the 23 percent don’t assume that the other 80 percent are dissatisfied. Do you think we could tweak our site a little bit to make it clearer or do you think these were just numbskulls?

MS. MYERS: I don’t know how much the licensees and permittees actually use e-mail, and that’s something that I’ve been thinking about and wondering if we could add that. But, we are still working on all of these, trying to think of ways to improve our services for our customers because so much is on the internet. So many agencies and businesses are relying on the internet for all their transactions. I would like to try to get an idea of how many of our licensees and permittees actually do have e-mail and use it, because from these numbers, a lot of them either they just didn’t...when they were going through, you are either very satisfied or dissatisfied or you can just circle in the middle if you don’t care either way. I’m thinking a lot of them are not to either extreme or maybe they don’t have access.

MR. BAILEY: I think one thing we can do is tweak our reporting because if I'm understanding what she's saying is that's a group that didn't even respond or didn't indicate a response.

MR. YARBROUGH: We mailed these out, and I don't think we had a category, "I don't have a computer and don't use the internet at all." So, 23 percent would be of those that came back that said they found it reasonable, but there may be a lot of people who it doesn't even apply to. We may need to tweak how we report those, only those that use the internet, for example.

MR. STEEN: You ought to ask that question first and then ask the others.

MS. MYERS: We do have an "n/a," not applicable. But that is one thing, trying to find out how many actually use e-mail. A lot of the e-mails we do receive are not necessarily licensees and permittees. I think the majority of the questions we receive in regards to clarification of the law, a lot of them are licensees and permittees, but a lot are asking questions about employment or, "I'm thinking about opening a bar, but I don't know what the process involves."

MR. SHIVERS: You sent out 1,920 surveys?

MS. MYERS: Yes.

MR. SHIVERS: The cost per customer survey was 26 cents. Is that correct?

MS. MYERS: Those figures are projected for next year.

MR. SHIVERS: Based on half a million customers?

MS. MYERS: We are planning on next year surveying 30 thousand.

MR. SHIVERS: I'm looking at the last page of your...

MS. MYERS: It's the second to the last page of the actual report before the compact, the output measures.

MR. SHIVERS: I was looking at the efficiency measures and explanatory measures. You are going to survey 30 thousand next year, is that right?

MS. MYERS: Yes.

MR. SHIVERS: Is that out of half a million served?

MS. MYERS: We had a problem with the numbers...

MR. SHIVERS: I'm trying to understand the half million served and cost per customer surveyed. I'm a little lost on that.

MS. MYERS: A lot of our activities, like enforcement, many agents go to schools and present Project SAVE. So, we consider children our customers or even parents and community groups.

MR. SHIVERS: We have half a million customers served and 20 million customers you've identified?

MR. BAILEY: I think this is from the continuation of the other page. These are standards that are set out by the Legislative Budget Board. These are generic standards that they are recommending that we strive for. Look back one page.

MR. SHIVERS: I don't know how they derive these numbers. They want your cost per customer surveyed down to 26 cents per customer. Is that right?

MS. MYERS: We were planning on surveying the individuals on the newsletter list, so it would actually be...the newsletter, you open it up and it has three pages. We were going to have the survey as the last one, and they can fold it and just drop it in the mail. The postage is paid for and the address is already there. So, it would be the last page, and when you do bulk mailing with the newsletter, it's cheaper.

MR. SHIVERS: Thank you. Any other questions? John?

MR. STEEN: Mr. Bailey, I was talking to someone that works for the commission, and I noticed a lapel pin, and I asked them where they got that. They said you had given them that because someone had written a letter complimenting their service. I just wanted to ask you about that. I think that's a good program, that you give out awards to people based on customer service satisfaction.

MR. BAILEY: I wouldn't consider it an award. It's just a little token of our recognition and appreciation for an employee representing the agency well. What we did originally, we were handing out the lapel pins and we progressed from that to the writing pens that are engraved with the agency's name and the employee's name, and we are up to key rings now. Most of the notes that I write are a result of somebody being mentioned, by name, on one of the more standard surveys that we told you about before. What Claire has

been talking to you about today was a special effort in regards to the compact. But, as you know, we routinely survey our customers, and when they take the time to recognize an employee by name we, in turn, recognize that employee.

MR. STEEN: I think that's a good management activity.

MR. BAILEY: Thank you.

MR. SHIVERS: Anything else? Thank you.

Number five - consider publication of proposed new rule 16 TAC §33.42 - Affiliation Between Wholesalers and Distillers. Mr. Bright?

MR. BRIGHT: Mr. Chairman and Members, this rule is before you, as you mention, to consider publication for comment. We have met with our friends in the industry about this rule and discussed it among ourselves. The point of that rule would be to try to define, in part, the word "affiliation" as it appears in 102.09, one of our inter-tier control provisions. I think that all are agreed that given the breadth of potential conduct towards which the word "affiliation" might apply, given the surprising rarity of disputes under this statute, that both the industry and the agency are better served by continuing, for the reasonably foreseeable future, to address this matter on a case-by-case basis rather than through rulemaking.

We began this process by a request that we engage in rulemaking, and that approach meets with the approval of the requestor. His letter withdrawing his request is in the file before you. So, the staff recommends that you take no action on this proposal, and I am given to inform that, at least for once, that staff recommendation meets with the resounding approval of all concerned.

MS. MADDEN: Sounds good to me.

MR. SHIVERS: Is that alright with you, Mr. Steen?

MR. STEEN: That's fine.

MR. SHIVERS: Number six - consider amendment to 16 TAC §45.106 as published in 25 TexReg 4269 on May 12, 2000 - Sweepstakes and Games of Chance. Mr. Bright?

MR. BRIGHT: Mr. Chairman and Members, this rule has been published. It is before you

for adoption. Once again, we have met and discussed the issue among ourselves as a staff and with our friends in the industry. We thought we were ready to rock and roll today. Late Thursday afternoon, a question arose from a member of the industry about how this rule would actually apply in a given fact situation. We have not had much time to consider that, but our consideration to date brings us to the result of, “Good question. We probably ought to talk about that some more.” I have casually discussed our recommendation with the other members of the industry today. We would like to beg for another 30 days so we may thoroughly discuss the implications of this rule.

MR. SHIVERS: Is there any objection?

MR. STEEN: No objection.

MS. MADDEN: No.

MR. SHIVERS: In that case, we don’t need an executive session to talk about five or six, do we?

MR. BRIGHT: That is correct.

MR. SHIVERS: Alright.

That brings us to adjournment. Is there anything else to come before us? Does anybody have anything to say?

Motion to adjourn?

MS. MADDEN: I so move.

MR. STEEN: Second.

MR. SHIVERS: All in favor, aye.

MS. MADDEN: Aye.

MR. STEEN: Aye.

MR. SHIVERS: Aye. Thank you very much.

The meeting adjourned at 2:22 p.m.