

February 28 Transcript

Texas Department of Transportation Commission Meeting

Commission Room
Dewitt Greer Building
125 East 11th Street
Austin, Texas 78701-2483

Thursday, February 28, 2008

COMMISSION MEMBERS:

Hope Andrade, Chairman
Ted Houghton, Jr.
Ned S. Holmes
Fred A. Underwood

STAFF:

Amadeo Saenz, Executive Director
Steve Simmons, Deputy Executive Director
Bob Jackson, General Counsel
Roger Polson, Executive Assistant to the
Deputy Executive Director
Dee Hernandez, Chief Minute Clerk

Agenda item 9(a)(3) deals with some proposed rules for Chapter 17, Vehicle Titles and Registration, and Rebecca Davio will come back up and present.

MS. DAVIO: More license plate issues. Last time we talked, you adopted the new what we refer to as general-issue license plate design. That's the plate that everybody gets unless they choose to have a specialty license plate. Now I'd like to turn your attention to specialty license plates. Those are the plates that people purchase that support a particular cause or express their personality through the personalization.

In 2005 the legislature directed TxDOT to enter into a contract to hire a vendor to design and market specialty license plates, and we signed a contract with My Plates, Inc. in November of 2007. This is the first contract of its type in the country where the state legislature has directed to hire a vendor to market specialty license plates.

Just to go over some of the highlights with you about this contract, the contract has already been awarded, as I mentioned, there is a \$40 million minimum guarantee over the

initial five-year term of the contract that the vendor will pay to the State of Texas, and that \$40 million will go to the General Revenue Fund.

There are no changes to the existing specialty plate prices, they will all remain exactly the same, and as a result of the negotiations, the existing and the new plates will all be offered on a single website. We feel like that's great for customer convenience, so if you and your spouse each want a specialty plate and one wants an existing specialty plate and the other one wants a new plate, you have a single place to go to. We feel like that will also be advantageous for existing plate sponsors because My Plates is going to spend a lot of money to market plates and generate interest and awareness of that website.

We also did a lot of work to develop this contract. We developed some new standards for law enforcement legibility, that's to make sure that that plate remains readable, and also to develop a reflectivity standard. You may not be aware, but license plates actually contribute to safety, and if the vehicle runs off the road and it's dark and the reflectivity of that license plate may be the only thing that enables a passerby to see them. So we developed those two new standards for legibility and for reflectivity.

The reason that we are here before you today -- as I mentioned, the contract was awarded in November of 2007 -- what we are bringing to you today for your consideration is the new fee schedule. There is a requirement that the commission approve the vendor's proposed fee schedule. So the vendor is currently proposing three different categories of license plates: Category A is color or themed plate, and that one-year plate cost is \$95; the Category B, the limited edition plate, is \$195 for a one-year plate; and Category C is \$395 for a plate.

Just to remind you, the existing specialty plate price is \$30 per plate, so they're going to be limited edition and prestige plates and offer new colors and new themes. You'll also notice that on their fee schedule, My Plates has requested to sell five-year plates and ten-year plates, and so the price for a ten-year plate is \$795 for the prestige plate, just to give you an example.

And in the course of the negotiations to award this contract, we came up with revenue-sharing for the State. I told you that the State was guaranteed \$40 million and the next slide will show an example of how that's going to work. We took the example of the \$95 plate. The \$95 plate, the way that works is that the State -- and this is TxDOT here -- gets the \$8. That \$8 cost is what we've established is the cost that it actually costs TxDOT to get the license plate, to ship it, to do all the functions to have that plate produced. So that leaves \$87 then when you take that out. On a plate that costs less than \$150, the State gets 30 percent of that \$87. And so that means that on a \$95 plate, the State, the General Revenue Fund, gets \$26.10.

I took the other end of the price schedule and showed you on the \$795 plate, that was the ten-year prestige plate. And so that \$8 cost for the plate is taken out and that leaves \$715. On the higher cost plate, the General Revenue Fund gets 45 percent of that plate sale, so

the State General Revenue gets \$321.75. So total money for the \$795 plate that goes to the State is \$401.75.

So we feel like this is a great idea because it's going to offer a lot of new plate designs for the general public to choose from, and it will also generate revenue for the state, while still maintaining the basic purposes of safety and reflectivity for the license plate.

We would request your approval of these proposed rules.

MS. ANDRADE: Members, any comments or questions?

MR. HOLMES: Rebecca, do you know much about other jurisdictions that actually auction off specialty plates?

MS. DAVIO: I might have seen the same. I think it was a CNN report about Dubai where they were auctioning off plates. In the Middle East, as I understand it, and Asian countries, license plates sell for millions of dollars and they actually do auction them off.

MR. HOLMES: The one I actually had heard about was a U.K. plate that was auctioned off and went for it wasn't millions but it was something like 200,000 sterling. Have we considered how we deal with multiple requests for the same plate?

MS. DAVIO: To this point in time, multiple requests for the same plate are handled on a first come, first served basis, but as I mentioned, this was a new contract, there are lots and lots of things for us to explore, and auctions may be something that is considered at a later point in time.

MR. HOLMES: How long is this contract for?

MS. DAVIO: The initial term of the contract is for five years. It is possible, if everything is going well, to renew it for two additional five-year terms.

MR. HOLMES: So the sale of a ten-year plate, if this contract is not renewed, what happens to that second five-year period?

MS. DAVIO: Well, the state has gotten their money for that plate up front and so the customer has their ten-year plate and they would have the option to renew that if they chose. As part of this contract, we have negotiated that all the intellectual property, the designs that are created here in Texas will become TxDOT property and we can continue to offer those plates.

MR. UNDERWOOD: One quick, Madame Chairman.

If you have the very fancy plate -- if I can remember the name --

MS. DAVIO: Prestige.

MR. UNDERWOOD: -- prestige and it's either stolen or damaged, how do they go about replacing that one?

MS. DAVIO: We'd handle that the way we --

MR. UNDERWOOD: Would they pay the same amount again?

MS. DAVIO: No, sir.

MR. HOLMES: Well, what is an example of a prestige plate versus a limited edition?

MS. DAVIO: For that perhaps I should introduce the head of My Plates, the president of My Plates. He could speak a little better about the designs that they're considering. We've seen initial sketches, so with your permission?

MS. ANDRADE: Please.

MS. DAVIO: James Power is the president of My Plates, Inc.

MR. POWER: Madame Chair and commissioners, just for the record, my name is James Power and I'm the president of My Plates.

It's a very good question. Limited edition plates are typically offered a specific number, and while we're still working through the ultimate designs that we want to propose to TxDOT, an example might be the characters TEX, T-E-X, 000 to 999. We think that's possibly a combination of characters that would have great appeal here in the great state of Texas. Another example might be USA-000 to 999, and once again, because there's a limited range of those plates, we would offer them at a slightly higher price than the standard plate that we're offering at \$95 a year.

The prestige is any combination of up to six characters, so for instance, obviously the name Ned or James or Hope obviously has more value than say just three letters and two numeric characters as you currently get on an existing specialty plate. So we feel that there should be an appropriate premium attached to that price.

We may also offer a slightly expanded range of colors in the prestige or luxury category, for instance, silver and gold which typically sort of create a perception of value in the mind of consumers.

MR. UNDERWOOD: You said six letters. It was seven, isn't it?

MR. POWER: I understand under the legislation -- and I'll defer to the record if I'm incorrect -- we have the option to go up to seven characters and that is something that is anticipated being done in the future.

MR. UNDERWOOD: Okay. Present is six. Correct?

MS. DAVIO: I'm sorry?

MR. UNDERWOOD: Six is what the present amount of characters is.

MS. DAVIO: Six is what the present is, and we will likely come back to you again with an amendment to the fee schedule when we look at the seven character plates. You can spell more things with seven characters than you can with six.

MS. ANDRADE: Members, we do have a citizen to be heard, but I also have a question for Rebecca. I just want to make sure that we understand that the \$8 that comes to TxDOT is only to cover the expenses and that all other revenue from this contract goes to the General Revenue and not to TxDOT.

MS. DAVIO: That is correct, that was the way it was written in statute.

MS. ANDRADE: Just wanted to make sure. And on some of these specialty plates, if two people ask for the same color or theme, they will have different characters and so that will be able to identify who the car belongs to.

MS. DAVIO: That's correct.

MS. ANDRADE: We do have a citizen to be heard. Rebecca, if you'll let us hear our citizen.

MS. DAVIO: Absolutely.

MS. ANDRADE: Robin Stallings, executive director of the Texas Bicycle Coalition.

MR. STALLINGS: Hello, Chairwoman Andrade, commissioners, Director Saenz.

Well, actually, the Share The Road license plate generates about \$50,000 year -- you may have seen it with the yellow jersey on it -- and that is matching funds. TxDOT gives it to TEA, TEA gives it to us for our education programs which is the largest children's safety education program in the country. So we take that money and turn it into several hundred thousand dollars, matching federal funds, working very closely with TxDOT on that. And we're one of about 100 beneficiary organizations that include parks, arts, universities that benefit from the existing special plates. So there's quite a bit of interest but not everybody is quite as up to speed on it as we are, and we really depend on this to fulfill our mission.

This was based on House Bill 2894, and there's three different points that I'll mention and then I'll suggest some solutions. We're not trying to tank the whole deal, we're just trying to figure out how, along with the legislation, the new contract and the new vendor and the new plates may not compete with existing plates. Now, that's pretty general but it says it may not compete. It says that TxDOT must certify the estimates of the expenses to TxDOT, indirect and direct, to the Comptroller of this contract. I don't know if that's been

done yet, but I'll get to why that matters when I make my other comments. And then there may be some problems with the minimum guarantee based on the legislation as well.

To start with that, the minimum guarantee is \$40 million over five years that the legislation says that money may only be paid from the plate revenues by the vendor. And so that means that they're not actually allowed to pay outside of that, it's payable only from amounts derived from the collection of the fee established under Subsection (b). So I'm not a lawyer, but that looked pretty straightforward to me.

So what we would request is that because of the potential impact, there has been no example of a vendor coming in in Australia or in the U.S. when there's a large number of existing specialty plates. That didn't happen in Australia. Texas has chosen to fund a lot of very important things for the state, including parks, arts, university functions, Girl Scouts, lots of stuff, and bicycle safety education for children, through user fee of a license plate, optional, voluntary. People can pay a little bit more and most people don't really know what the cause is, they might if it's Girl Scouts and it's real obvious, but mostly they buy a plate that they think is going to look good on their car.

And the advice I got from TxDOT that was very valuable, before we did our design, we had a statewide contest, we had a few less than a million respondents but we did the same thing where we surveyed out there, and it's really about the look of the plate. So in a way, the more plates you get, great looking plates, there's inherently competition, we realize, on that whether there's intention or not.

The contract has been approved but the fee schedule has not been approved, and so if you were to postpone decision on this, it would give more time -- I realize this is only preliminary approval but this would give time to resolve some of the issues that I'm bringing up and to make sure that we're in compliance with the legislation which is to not compete with the existing plates.

And I believe that you all may have received a letter that I sent you all yesterday. I also copied Ms. Davio, who has been extremely helpful, the License and Titling Division has been great, the people have been very pleasant with personal plates, Queensland which is the parent company of My Plates, and My Plates, they've all been very helpful. We didn't have a chance to comment on this until after the contract was already signed. We understood in 2006, when this was shelved after the first contract, that we were going to be consulted, so we kind of all went to sleep on this because it's been in the legislation. It's been very important to Senator Deuell and Representative Phillips and to TxDOT that the existing plates not be hurt, but unfortunately, we didn't have a chance to weigh in, and we're the only people that have experience selling these kind of specialty license plates. It's a little bit different than what My Plates has done, and certainly in Texas.

And the Texas Bicycle Coalition, for one of the Tours de France, we actually took souvenir plates to France and we've actually sold specialty plates in another country, and we've got some experience with the price sensitivity and major changes from one country to another. It's not directly translatable. So they may find some of that here as well.

But we'd like to see a guarantee to the existing plates so that ideally it would be proportionate so that if they're going to grow the market, it doesn't inherently mean that all the other plates are going to do better because the market gets bigger. Think about some of the soda pop brands that you drank as a child that are gone, even though the soda pop market is much larger. You could look at the cars that disappeared as the car market got larger, but General Motors and Ford got bigger and other brands just went away.

So it's the same thing with this, just because you grow a market doesn't mean that all ships will rise, but it is possible out of the \$40 million, for example, to guarantee that there will be no harm.

There's no appeals process right now. For example, if a plate is approved by the working group at TxDOT, the legislation says that TxDOT needs to approve these new designs, there's no appeals process if we disagree. For example, the marketing materials -- which I know how much work TxDOT did on this and everybody did on this because it's a ton of documents, and I'm, again, no attorney -- there's no appeals process so that if we happen to disagree and we think it's competing -- for example, they use Lance Armstrong and Willie Nelson, examples of great Texans that could help sell plates. Well, Lance has been behind the cancer plate and also approved his image on our plate, so anything you do with Lance is competing with at least two existing license plates. And anything you do with Willie Nelson is probably competing with the Texas Music plate, that funds the Texas Governor's Music Office, with Blind Lemon Jefferson on it. So people may not think there's a conflict but yet there could be.

If you get a burnt orange plate -- which was also in their marketing materials -- as a background, is that competing with the UT plate? And they also had the same example for Texas A&M and whatever their colors are. As a UT grad, I've blocked that out.

(General laughter.)

MR. STALLINGS: So anyway, that's a concern that this body could insist on an appeals process that included existing specialty plate holders. And then the working group itself that approves the new designs is made up, according to the contract, of two people from My Plates and two people from TxDOT, no existing plate beneficiaries. So in other words, they're there to approve their own designs. And having sat on advisory committees and knowing how important it is to avoid conflicts of interest, or the appearance thereof, that's a little bit of a concern.

Then the leveling the playing field, this one website that's going to benefit everybody, may. In fact, it's possible that somebody would buy a Share The Road license plate when they go to the My Plates website. Right now, finally -- and we're so happy -- TxDOT has online license plate sales. We've hoped and waited for this for years. Well, they're going to shut down that site, and the same site, I guess, that got a million respondents on this, so it can really attract people. But they're going to actually have it at My Plates so they will control all of the online sales, and this is kind of a last century idea because if we want to do any online sales, we actually have to promote their website, and then

according to My Plates' marketing materials, they're going to have Amazon.com type attracters, so you like that, try this one. Just like we would, if somebody came to our site and we'd say, You like that plate, how about buying these gift cards that have the same design. That's natural and that's the way you do web marketing.

So we're very concerned that all of the plates, arts, everybody, and so we would like to see a level playing field where TxDOT would be either a neutral place or that there would be a provision that we could make those online sales on our own website so that we could spend our very limited marketing dollars on that.

They have an inherent advantage in marketing. While all the existing plates are prescribed by statute and how the money has to be spent, ours must be spent on cyclist and motorist safety education, it has to be spent on arts, it has to be spent on parks, well, they can't spend money on marketing --

MR. HOUGHTON: Robin, are you going to breathe, are you going to take a breath?

(General laughter.)

MR. STALLINGS: Thank you. I'm sorry. I respect your time, and if that means I'm trying to go too fast, that's only out of respect so I can get through this because I know you have a lot of things on your plate.

MR. HOUGHTON: No, that's not it. I just need Rebecca to answer your questions. I'm not sure she has all the questions written down, you went so fast.

MR. STALLINGS: Well, I have given her these in advance and we have talked about these, so that may help a little bit. And we just had another very helpful talk before we started.

So there's a difference between the Legislative Budget Board estimate in 2005 which said there would be a \$3 million benefit to the state. That estimate was provided by TxDOT. Now there's going to be a \$40 million benefit to the state but that hasn't really been reconciled. Like how could it be that big a difference, because My Plates and PPQ has been there since 2003 on this legislation, what information was available now that wasn't available then. And so that's where we would request that the Comptroller kind of look at this to see are these estimates consistent.

TxDOT also estimated a \$216,000 hit on existing specialty plate holders, while we were assured by Ms. Davio and My Plates that it's going to really benefit us.

MR. HOUGHTON: Who said that, you're going to take a what hit?

MR. STALLINGS: A \$216,000 annual hit.

MR. HOUGHTON: Who said that?

MR. STALLINGS: TxDOT. And the Legislative Budget Board for the existing specialty plate holders. The State would benefit by \$3 million --

MR. HOUGHTON: Wait a minute, Robin, in my opinion, you're rambling on and on.

MR. STALLINGS: Excuse me, I'm sorry.

MR. HOUGHTON: If you don't mind, Madame Chair, I think we need to start clarifying all of the things you're asserting. Tell me who said we're going to take a \$216,000 hit.

MR. STALLINGS: TxDOT and the Legislative Budget Board.

MS. ANDRADE: I'd like Rebecca to answer that.

MS. DAVIO: This was a document that was prepared in 2005 that Robin actually showed me. I wasn't in this position in 2005. It looked like it had a projected loss from hiring a vendor, a marketing vendor. I really can't speak to how that was done, and I didn't get an opportunity to look at it.

MR. HOUGHTON: A loss to whom?

MS. DAVIO: To the existing specialty license plate sponsors.

MR. HOUGHTON: So in other words, that university he won't mention, Texas A&M, their plate will take a pro rata share reduction?

MS. DAVIO: And that was included in the fiscal note that Robin showed me.

MR. HOUGHTON: And was there any protest to that?

MS. DAVIO: I'm sorry, I don't have the history to be able to relate that. The problem with looking at this is you're dealing with projected numbers, and we don't know. This is the first contract of its kind where a state has gone out and hired a company to market specialty license plates.

MR. HOUGHTON: Where's my lawyer again? Can I ask you a question, Robin and Bob? Do we have a choice on this? This is mandated by the legislature, this is one of those things that we just went through that we amend our rules based upon legislation. Do we have a choice?

MR. JACKSON: No, we don't.

MR. HOUGHTON: Thank you.

MR. STALLINGS: Actually, the choices are in the nature of the contract -- you must do a contract -- and the choices of the timing, TxDOT must approve the new prices which

aren't as big as they seem. For example, \$395 over ten years is a \$39 plate, it's not quite as vast a difference.

MS. ANDRADE: Thank you, Robin. We need to move on.

Rebecca, have any other organizations visited with us about this?

MS. DAVIO: We actually had two meetings with existing plate sponsors in January, I believe, and we talked to them. We had My Plates make a presentation so that they understood what was going to happen, and we told them that there would be no change to their price. When this contract was awarded previously, that vendor had suggested changing the prices of all the existing plates, and we did not allow that in this contract to make sure that they were protected.

MR. HOUGHTON: I'm sorry, is it Jim?

MS. DAVIO: James.

MR. HOUGHTON: James,

MR. POWER: That's fine, Commissioner, I get called that all the time.

MR. HOUGHTON: Are you familiar with the University of Texas?

MR. POWER: Yes, I am, sir.

MR. HOUGHTON: How are you going to enhance the revenue to the University of Texas?

MR. POWER: Well, sir, I can speak from experience elsewhere. We have a very extensive marketing campaign that we're planning and going to be spending millions of dollars promoting specialty and personalized license plates in the state of Texas. My experience from that is that the general market increases overall, and that's been the experience in Australia and in other jurisdictions such as New Zealand, and you referenced before the United Kingdom.

MS. ANDRADE: They're going to sell more of their plates?

MR. POWER: I think everybody is going to sell more plates, I think the sponsoring organizations are going to make a lot more money, and the State is going to make a lot more money, and I think it's a very positive program for Robin and all the other wonderful sponsoring organizations.

MS. ANDRADE: Thank you very much.

MR. STALLINGS: But they won't actually be marketing any of the existing plates. If we wanted to do a partnership with them, we may spend another \$8,000, get a new plate, and start from scratch with an agreed upon cut. But all the existing specialty plate holders may not spend their money on marketing because it's been prescribed by statute, they have to spend it on good causes.

MR. HOUGHTON: Robin, it's going to be on their internet, that's marketing.

MR. STALLINGS: Every book on Amazon.com doesn't sell, only the ones that they're promoting.

MS. ANDRADE: Commissioner Holmes, you had a question.

MR. HOLMES: Yes. Where is Bob again? Bob you said we didn't have a choice. I assume you mean we don't have a choice but to approve some type of contract.

MR. JACKSON: Yes, sir.

MR. HOLMES: But was the language of the contract actually dictated by the legislature?

MR. JACKSON: No. We were required to enter into a contract, and then we're required by rule to adopt a fee schedule consistent with the contract.

MR. HOLMES: And so the fee schedule is a negotiated piece, not mandated by the legislature.

MR. JACKSON: Yes, sir.

MR. HOLMES: Did the legislature specify the treatment of the existing plate issuers like the parks and the bicycle group and arts, et cetera? Did they mandate how that was handled?

MR. JACKSON: No, sir.

MR. HOLMES: And so while we may not have a choice but to issue a contract, the contents of that contract have some leeway in respect of negotiation?

MR. JACKSON: Yes.

MR. HOLMES: And have we fully accounted for the concerns that the other entities have, the other specialty plate issuers have, whether it's UT or A&M or whoever they are.

MR. JACKSON: I defer to Rebecca who did hold two meetings with those.

MS. DAVIO: The other organizations, I think that what's happening here is there's just a lot of uncertainty: it's the first time, we don't know what's going to happen. The

experience that we have from Australia says that it looks like marketing and the general increase in awareness of the availability of specialty plates helps everyone, but we can't guarantee that, we just don't know. I think that Robin and the Bicycle Coalition has a great deal of very adamant supporters for their plates and for their cause and they will continue to buy their plates even though there are new options for them to select from.

MR. HOLMES: And Rebecca, to your knowledge, have some of the issuers of specialty plates actually seen and commented on the contract?

MS. DAVIO: I believe Robin has done an Open Records request so he has seen the contract, and he's making his comments.

MR. HOLMES: But there are a number of specialty plate issuers. Right? Do we have any idea how many there are?

MS. DAVIO: There's 112 specialty plates, current existing specialty plates.

MR. HOUGHTON: How many are issued in the state of Texas, total specialty plates?

MS. DAVIO: Approximately 250,000.

MR. HOUGHTON: Out of how many registered vehicles?

MS. DAVIO: About 21 million. It's a very small percentage and that's one of the reasons why we feel there's such potential here to increase the sale of specialty plates, both new plates and existing plates.

If I may -- I'm sorry, Commissioner.

MR. HOLMES: I would agree that there is an opportunity to significantly increase. Obviously James believes that to. Right?

MS. DAVIO: That's right. Other states do have higher percentages of plates sold.

MR. HOLMES: My concern is that unless the legislature has mandated that the specialty plate issuers are of no consequence, they are perfectly happy for their revenue sources to decline, then I'm sensitive that they don't decline and that we accommodate that.

MS. DAVIO: Absolutely. So are we, and we took steps in the contract and during the negotiations to try and protect that. For example, if there was going to be a competition on price, and there's not with this proposed fee schedule, but if there was, we said that My Plates could not undercut the existing price for specialty plates so they wouldn't have that advantage. We negotiated with My Plates to be able to offer all plates, so they're offering, in a sense, their competitors' plates on their site at no charge to TxDOT or their competitors.

MR. HOLMES: One more question and then I'll turn it back to you, Madame Chair. We conducted the negotiation with My Plates on behalf of not just TxDOT but also the 112 specialty plate issuers?

MS. DAVIO: I don't think we could say we conducted the negotiations on behalf. I don't think that TxDOT has the authority to conduct the negotiations on behalf, and I'll defer to Bob Jackson.

MR. HOLMES: With sensitivity to what we perceived their needs were?

MS. DAVIO: Absolutely.

MR. HOLMES: And that was done in consultation with the specialty plate holders or by our perception of what their needs were?

MS. DAVIO: By our perception and also by the feedback that we had received. This contract had been previously awarded and there was feedback received at that particular point in time, and so we considered that feedback during the negotiations. Things like I mentioned the previous contract had raised the price for all existing specialty plates. That recommendation was made without consultation to the specialty plates, and we expressly prohibited that.

MS. ANDRADE: Rebecca, would you remind us how long we've been discussing this?

MS. DAVIO: The initial legislation was passed in 2003 allowing TxDOT to enter into a contract to hire a marketing vendor. In 2005 that was made into a directive. My very first official action to come before this commission was in January of 2006, the contract was canceled in February of 2006, and I have spent a great deal of my time personally over that period of time to make sure that the request for proposal was fair, allowed the broadest possible benefits to the State, while protecting the rights and interests of the existing specialty license plates. It's been a very, very long process.

MS. ANDRADE: Any other questions?

(No response.)

MS. ANDRADE: Members, you've heard staff's recommendation.

MR. HOUGHTON: So moved.

MR. UNDERWOOD: Second.

MS. ANDRADE: We have a motion and a second. All in favor, say aye. Is silence an aye?

MR. HOLMES: (No audible response.)

MS. ANDRADE: We have a motion and a second, so we need to either vote it up or vote it down.

MR. HOUGHTON: I withdraw my motion.

MR. HOLMES: (No audible response.)

MS. ANDRADE: Bob, do you want to give us some direction here? We had a motion and a second and we only have two ayes, but now we're having a motion withdrawn.

MR. JACKSON: Commissioner Houghton is withdrawing his motion, so you can start over.

MS. ANDRADE: So the motion and the second have been withdrawn.

MR. HOLMES: I'm sorry. I want to be certain that specialty plate holders have their concerns addressed, but I accept the belief that private marketing will significantly increase sales of specialty plates. But I am concerned, and we've heard from Robin but we haven't heard from others, and that's why I asked how involved were they, did you get any kind of guidance, sign-off, acceptance from some of the other specialty plate issuers, from the arts people, from the parks people, from the school people, whoever they all are.

MS. DAVIO: I've had conversations with the representative from the arts plate, I've had conversations -- I just talked yesterday to Parks and Wildlife, and once I talked to Parks and Wildlife yesterday, I said, Okay, we don't know how this is going to work.

MR. HOLMES: But they also have not seen the specific language in the contract. Is that correct?

MS. DAVIO: I believe that both of those organizations have seen the language, they both seemed to indicate that they had seen the contract.

MR. HOUGHTON: What's the largest specialty plate issuer?

MS. DAVIO: State of the Arts.

MR. HOUGHTON: That's number one. What's their revenue to State of the Arts, do you know?

MS. DAVIO: They have a representative here. I'm not sure.

MS. ANDRADE: We need to make sure he signs a card.

MR. HOUGHTON: We'll have him sign it after he talks.

MR. GIBBS: I'm Gary Gibbs, the executive director of the Texas Commission on the Arts. I just started in October, but we budget every year around \$400,000 of income from the specialty license plates, in answer to your question.

MR. HOLMES: Have you seen the proposed contract that is before the commission?

MR. GIBBS: I have not seen that contract. I'm aware of the concerns that were expressed by Robin, but we have purposely not made a decision, awaiting your leadership.

MR. HOUGHTON: Well, we would sure like to do it the opposite way.

MR. GIBBS: I have some of the many concerns that he expressed. Just from a pure marketing standpoint, as you well know, any kind of pro bono work, if that's not your main mission, that's not what's driving you to sell, then you don't promote that as you do other things.

The other issue is that we have all kinds of marketing materials that are already produced. That would be an administrative cost to us to reproduce in order to let the general public know that now you have to go somewhere else to get your license plate.

MR. HOLMES: The fact that we've been at this for five years -- is that right? -- is somewhat disturbing to me because it doesn't seem like that weighty an issue that we would spend five years to resolve. Having said that, if you haven't seen the language, you have expressed some concern but they're nonspecific, as I understand it -- at least I'm not sure what your concerns are.

MR. GIBBS: Mainly it's the fear of loss. We have the highest selling license plate in the state of Texas and that's something we're very proud of. I think it's mainly because of the design, as was expressed earlier, because it looks very similar to the Texas flag and people like that. And so I am concerned that having many other plates competing against that, in a specialty type plate sense, that it could have some impact on our revenues.

MS. ANDRADE: Members, is it your wish to defer this item until Rebecca has a meeting with these not-for-profit organizations, or do you want to continue with voting?

MR. HOLMES: That would be my preference, Chairwoman.

MS. ANDRADE: Rebecca, how do you feel about us deferring it for another 30 days and you getting the not-for-profits together to further discuss this and come back with a report to us at the March meeting?

MS. DAVIO: Okay. I'm happy to do whatever you direct. I would remind you that we've had two meetings with the existing plate sponsors, and you know, we're happy to continue to try and work with them. I would suggest that perhaps we could work at that while the rules are being proposed and considered. They'll still have a formal comment period. The reason that I'm encouraging you to consider adopting the proposed rules at

this point in time is because the adoption of the fee schedule is critical in order to begin generating revenue for the State. My Plates cannot market a single plate and generate a single dollar for the State without the approval of the fee schedule.

I think the difficulty here is that there are so many unknowns that we don't know. I don't believe anyone can provide a guarantee to the existing plate sponsors that their plates will not be harmed. What I could say is that evidence that we have from another country doesn't indicate that that will be the case, that, in fact, their plate sales will increase. And it's a very difficult situation. We're conscious and very sensitive to their concerns, and some of the things, I think, if you'd allow me the time to try and address some of the things that were raised, I believe that the fiscal note that Robin referred to was actually the LBB fiscal note. Many times they don't accept TxDOT projections, and as I mentioned, I can't speak to exactly what our projections were but it may have been LBB's projections of a loss.

MR. HOUGHTON: Let me ask you a question, since we're all airing things out here. I am a little confused, the prestige plate, was this part of the legislation or part of what you all came up with?

MS. DAVIO: The idea for the prestige plate?

MR. HOUGHTON: Yes.

MS. DAVIO: That was actually what the vendor came up with. They have done research in the state of Texas to look at and to survey citizens and say: What do you think, what would you pay for a plate, what kind of designs and things would you be interested in.

MR. HOUGHTON: What if Ned Holmes wanted a specialty plate and he was willing to pay a half million dollars for that specialty plate, could he do that?

MS. DAVIO: I would hesitate to speak for My Plates, but my guess is they would certainly enter into discussions.

MR. HOUGHTON: And he wanted to put University of Texas on there, specialty plate, only one of a kind.

MS. DAVIO: Well, that would require permission from the University of Texas.

MR. HOUGHTON: If it's a half million dollars.

MS. DAVIO: That would still require permission from the University of Texas.

MR. HOUGHTON: My point is how much revenue does the University of Texas receive from that.

MS. DAVIO: At this point in time, we can't tell you that because --

MR. HOUGHTON: He's going to be paying a half million dollars. Tell me what they're going to receive, one plate, one time. Please, James, tell me.

MR. POWER: The answer is very simple, Ted. We can't use anybody's symbol or logo or trademark without their permission, and I presume the University of Texas would enter into a negotiation with My Plates.

MR. HOUGHTON: Right, that's my point. Can you do that?

MR. POWER: Well, I'm not a lawyer, but we certainly do that elsewhere and we'd be happy to do so here.

MR. HOUGHTON: I think we ought to go back.

MS. ANDRADE: Thank you. Rebecca, let's go ahead, and it's apparent that we still need to discuss this further, so we're going to defer this for the March meeting, and Amadeo will get together with you and will hopefully answer all the questions that the commission has.

MR. HOUGHTON: Well, Madame Chair, with all due respect, I think we're missing -- Ned brought this up, I was unaware of what happens in Dubai and the U.K., and there may be opportunities like that that need to be allowed in this contract.

MS. DAVIO: And we are fully supportive of that. In fact, we have already had discussions regarding auctions, and what we are trying to do, because this is brand new, we are trying to work through some of this sequentially, and we have agreed that this is a starting place. My Plates said that this is what they'd like to propose. We fully anticipate coming back to you on a regular basis for rules consideration and amendments to the fee schedule, and auctions is something that we fully anticipate.

MR. HOUGHTON: Well, I think you ought to do it now while we're talking about these sort of things and that the State of the Arts back there may have a great idea on an auction that would increase their revenue, they can see an opportunity for revenue enhancement instead of looking at us to say we're not quite sure if revenue is going down because Robin throws a number out there in the LBB and scares everyone half to death -- which is not fair -- but the point is let's look at all enhancements. Why not?

MS. DAVIO: And we're fully supportive of that, we would love to bring to you a complete schedule, it's just that every single one of these things takes a great deal of time and effort. We have to look at, just on an auction, the implications for the customers, what impact is that going to have on TxDOT, how can that best be situated.

MR. HOUGHTON: I'm willing to wait until you get that done and enhance the revenue to those charities, universities, not-for-profits all over the state. If they want to come up and let their mind wander on how we can market these type of auction plates to enhance revenue, that's a great opportunity for State of the Arts to enhance the revenue. If they

have an auction and he's worried about revenue drop, here's an idea for a marketing person to come in and say we've got an idea for an auction. Right now under the contract he can't do that.

MS. DAVIO: I would defer to Bob, but I don't believe that State of the Arts or any other existing specialty plate can have an auction.

MR. HOUGHTON: They can work with James.

MS. DAVIO: They can certainly work with James.

MR. HOUGHTON: Bingo. But under the current contract we can't do that.

MS. DAVIO: Yes, sir.

MR. HOUGHTON: Working with an auction?

MS. DAVIO: It is not restricted, we can do auctions, and it is very possible.

MR. HOUGHTON: Why don't we research all of that and come back.

MS. ANDRADE: I think you need to prepare to be able to answer the commissioners' questions, and so let's defer this to March and we'll take it at that time. The item is deferred. Thank you, Rebecca.