

MINUTES

AUDIT SUBCOMMITTEE OF THE LEGISLATIVE MANAGEMENT COMMITTEE

The Audit Subcommittee of the Legislative Management Committee met in Room 131, State Capitol Building, Salt Lake City, Utah, April 30, 2002 , from 2:30 p.m. until 5:00 p.m.

Committee Members Present: Speaker Martin R. Stephens, Co-Chairman
President Al Mansell, Co-Chairman
Senator Mike Dmitrich
Representative Brad King

Legislative Audit Staff: Wayne L. Welsh, Auditor General
John M. Schaff, Deputy Auditor General
Rick Coleman, Audit Manager
Tim Osterstock, Audit Manager
Janice Coleman, Audit Supervisor
Leslie Marks, Audit Supervisor
Darin Underwood, Audit Supervisor
Wayne Kidd, Sr Performance Auditor
Aaron Eliason, Performance Auditor
Ivan Djambov, Performance Auditor
Darren Marshall, Sr Performance Auditor
Deanna Herring, Performance Auditor
Kade Minchey, Performance Auditor Intern
Lynda Maynard, Recording Secretary
Camille Ahlstrom, Legislative Secretary

Other Interested Parties: Criag Dinsmore, Ex. Director, Hogle Zoo
James Hogle, Chair, Utah Zoological Society
Paul Dougan, V.P., Hogle Zoo
Michael Gallivan, Hogle Zoo Board
Janet Haskell, Hogle Zoo Board
Dale Lund, Hogle Zoo
Darrin Fowler, Hogle Zoo
Cory Peterson, Hogle Zoo
Dan Hartman, The Tetris Group
John Robson, SLCSA Attorney
John Ogilvie, SOS Attorney
Shari Watkins, OFO Dir., Dept of Health
Andrea Wilko, Legislative Fiscal Analyst
Thor Nilsen, Legislative Fiscal Analyst
Vaughn Emett, Dept. of Human Services
Christene Jones, Dept. of Human Services
Joseph Reese, Dept. of Human Services

Senator Michael Waddops
Senator Paula Julander
Senator Karen Hale
John Hollenhorst, *KSL TV*
Greg Sumner, *KSL TV*
Bryan Scrott, *KSL Radio*
Courtney Zavala, *Fox 13*
Todd Houzaard, *Fox 13*
Dan Harrie, *Salt Lake Tribune*
And Others As Listed

1. Call to Order

President Mansell called the meeting to order at 2:30 p.m.

2. **Approval of Minutes** Representative King made a motion that the minutes from the January 29th meeting be approved. The motion passed.

3a. A Performance Audit of Hogle Zoo (Report #2002-02)

Presented by Janice Coleman, Audit Supervisor

This audit of Hogle Zoo was initiated by the Legislative Audit Subcommittee in response to questions raised by Senator Michael Waddoups. In addition, members of the Audit Subcommittee also added their own questions. These questions touched on a variety of subjects to which this report provides either answers or information.

Hogle Zoo Is Not Performing Well in the Market. Hogle Zoo's Wasatch Front market share has dropped from 53 percent in 1990 to 39 percent in 2001—a 13 percent decline. This loss of market share is of particular concern given the increasing amounts of money Hogle Zoo has spent on marketing. Because of this inverse relationship, marketing costs per visitor have risen substantially; however, revenue generated per marketing dollar has fallen. Unfortunately, the cause of this market decline is uncertain but some possible causes are: poor drawing power of exhibits (most exhibits are over 20 years old) and negative publicity surrounding animal deaths.

Present Zoo Site Is Too Small. If Hogle Zoo's new master plan were implemented on the existing site, then the zoo would have a capacity of one million visitors per year within the exhibit area. If the zoo were completely renovated, we believe Hogle Zoo could reach exhibit area capacity in as little as eight years, while debt payment on the new zoo would probably take 20 years. Further, the redesigned parking area will not allow one million visitors a year. It is troubling that Hogle Zoo officials were alerted to this problem in the March 1999 master plan, yet they proceeded with master plan implementation on the current 41 acre site anyway. Based on the estimated site life and the parking constraint, we believe it would be a very poor decision to spend \$80 million or more to construct on the current 41 acre site. Either significant acreage must be added to the current site or a new, larger site must be located. Certainly, significant public funding will be necessary to rebuild Hogle Zoo.

Construction of the Entryway Is a Concern. In our opinion, the action taken by Hogle Zoo board members and administrators to construct the entryway was a poor business decision. The zoo director has stated that building the entryway project would generate increased income which could support future construction of

animal exhibits. However, the additional profits generated by the entryway do not compare favorably to profits generated by other options. As another point, the construction of the entryway slowed down construction of major animal exhibits. At a final cost of more than \$7.7 million, the entryway project was far more expensive than the \$5.8 million cost estimate. We believe such a large investment was inappropriate since the zoo was awaiting a decision regarding a possible zoo relocation from the present site.

Both Expenditures and Savings Increased upon Receipt of ZAP Funding. Hogle Zoo's total revenues are \$3.9 million more in 2000 than in 1996 (one year prior to receipt of ZAP funds), while their cash expenditures in 2000 are \$1.4 million higher than in 1996. Expenditure increases are largest within marketing, animal care, and administration. Since revenues increased more than expenditures, Hogle Zoo was able to save enough money to pay for the \$7.7 million entryway with cash.

Maintenance and Care of Animals Have Improved. Direct animal care resources have increased historically. Since 1991, total animal care dollars increased 71.6 percent while full-time animal care employees increased 44.4 percent. Further, on a per animal basis, direct animal care expenditures have increased 147.6 percent. This large per animal increase is primarily due to Hogle Zoo's declining animal population. In addition, human-caused and facility-related death rates were high at Hogle Zoo but have improved substantially. Finally, most animal sales except for two appear reasonable.

Administrative Expenditures Are Not Alarming. Generally, administrative expenditures do not appear to be extraordinary. Overall, administrative expenditures increased \$265,909 since 1996. Sixty-five percent of this increase (\$174,000) comes from administrative salary expense alone; however, this is not surprising since administration is labor intensive. Part of this salary increase is attributable to an increase of 4.5 full-time employees; however, the director's salary is somewhat high. In addition, Hogle Zoo has begun to use outside consultants more, and this expense is primarily reflected in administration. Given Hogle Zoo's activities (developing a strategic plan and developing a master building plan), these expenses, for the most part, seem understandable.

Related-party Transactions Should Cease. The Hogle Zoo has entered into business contracts or agreements with both members of the zoo board (or the business they are associated with) and individual zoo employees. These types of agreements are called related-party transactions and, in our opinion, open the door for conflicts of interest. In fact, most of these agreements were not competitively purchased. Consequently, zoo officials have not been able to demonstrate that these transactions are in the best interest of the zoo. Specifically, did the zoo get the best possible service for the least possible cost?

ZAP and State Expenditures Not Known with Certainty. Hogle Zoo's expenditures of taxpayer funds are not well documented which results in poor public accountability. First, exactly how ZAP money was spent in some years is not known with certainty. Hogle Zoo has reported different uses of ZAP funds to different requesters. Second, it is also unknown how state funds were specifically used. The Department of Community and Economic Development (DCED) has never required Hogle Zoo to specifically account for the pass-through state appropriations. Nonetheless, our analysis indicates that for the five years reviewed, there were adequate and acceptable operational expenses for state appropriations to cover, even when ZAP expenditures are considered. In our opinion, Hogle Zoo should specifically account for its use of ZAP funds and state appropriations. Hogle Zoo officials agree and plan to begin specific reporting immediately.

Concessions' Overall Financial Performance Is Reasonable. Hogle Zoo's gift shop performs well financially and appears well managed. However, the gift shop's relocation within the new entryway did not produce profits in 2001 large enough to justify the investment in a new gift shop. Food services are also making

a profit, but their financial performance is not as strong as the gift shop. In addition, it is possible that food services' profits will improve if outsourced to a concessionaire. Within the food services department, the zoo provides private catered events and these expenses need to be kept separately from other food services' expenses so that catering can accurately determine its profitability.

Discussion following presentation:

Craig Dinsmore, Executive Director, Hogle Zoo, told the Audit Subcommittee that he appreciated the extensive effort that had gone into the audit and his staff looks forward to continuing the partnership with the Legislature. Mr. Dinsmore said he wanted to include the following points:

- In Hogle Zoo’s 70 year history, there has never been a period of such sweeping change which has included sustained operating support from the Legislature and the infusion of the ZAP funds from Salt Lake County.
- That Hogle Zoo has modernized its practices, expanded its programs, improved some of its facilities and dramatically improved the level of animal care.
- That the question of the Zoo’s future site and funding remains unanswered, which has confused the public, confounded the contributors and compromised the urgent need for substantial improvements to the Zoo’s current site.
- That a decisive action on the location and funding mechanisms for the future development of Hogle Zoo is an urgent priority.
- That it has been a conscious decision, not an accident, that Hogle Zoo has reduced their animal collection to give the animals more space at the present site.
- That Hogle Zoo continues to do facilities infrastructure and maintenance improvements but will not undertake any major animal improvements until location issues are resolved, and
- The master plan that Hogle Zoo has adopted for the current site projects costs in the range of \$80 - \$90 million for a complete build out of the 42-acre site.

Mr. Dinsmore concluded by telling the Audit Subcommittee that if there had ever been a presumption on the Zoo’s part that there was wrong doing or that things were done that were not in the best interest of the Zoo, he would have pursued the matter.

Senator Dmitrich asked if there were any objections from the board to having members from the parties who contribute money to HogleZoo be represented on the board.

James Hogle, Hogle Zoo Board President, responded by telling the Audit Subcommittee that the recommendation is valid. Mr. Hogle said that having direct participation in the activities of the board would be helpful to the governmental entities who would be represented, as well as the board.

In response to concerns expressed by Speaker Stephens as to the lack of parking at the current site of Hogle Zoo, Mr. Hogle said that they recognized that parking is a serious problem. Their consultants had made them aware of the problem. He said that there had been some arrangement made with This Is The Place State Park for some shared parking during the busy times.

Speaker Stephens also questioned why Hogle Zoo built a new entryway, costing \$7.5 million, when there is some speculation that the Zoo would not be staying at the current site.

Mr. Hogle said that, with the benefit of hindsight, he would agree that it wasn’t a prudent expenditure. He also said that when it was decided to build the entryway, there were some very serious visitor needs that needed to be addressed and that there was a belief that there was a good second-life use for the entryway, if the Zoo was relocated.

Mr. Hogle addressed the concerns of related-party transactions and no valid invitation to bid contracts. Mr Hogle said that the board has implemented a disclosure that is sent out to all trustees. He said that there is a fair amount of donated work or pro bono work that is received, and the contracts were done competitively.

Mr. Hogle completed his response by saying that, in his opinion, the biggest reason for the drop in attendance at the Zoo has been the slow deterioration of the exhibits. A new Zoo must be built, either at the current site or another site. Hogle Zoo cannot go on band-aiding the facility; but, until they have the ability to either invest in the present site or another site, they are spinning their wheels.

President Mansell requested that the Zoo, after reviewing the recommendations made in the audit with their board, forward their response to the recommendations to the Audit Subcommittee.

Motion: Speaker Stephens made a motion that the **Performance Audit of Hogle Zoo** (Report #2002-02) be accepted and sent to the Economic Development and Human Resources Joint Appropriations Subcommittee and the Workforce Services and Community and Economic Development Interim Committee. The motion passed.

3b. A Performance Audit of the Use of COLAs by HHS Local Providers (Report #2002-03) Presented by Leslie Marks, Audit Supervisor

Cost-of-living adjustments (COLAs) for state-contracted local service providers appear to be used properly for employee compensation and operating costs. We do not believe it necessary to have greater state control over the funds' distribution or use and believe it may be beneficial to call these funds a provider funding increase and eliminate the COLA designation.

Although there is a perception that the \$2.9 million increase must be used for provider staff compensation adjustments, we found no legal or contractual language requiring a specific use of the funds. The Legislature may want to consider clarifying its intent in either the Budgetary Procedures Act or the Appropriations Act.

Discussion following presentation:

Senator Dmitrich asked the auditors who requested the audit of the Use of COLAs by HHS Local Providers and was told that the Executive Appropriations Committee made the request.

After a discussion of the audit by members of the Audit Subcommittee, the following motion was made—

Motion: Senator Dmitrich made a motion that the **Performance Audit of the Use of COLAs by HHS Local Providers** (Report #2002-03) be accepted and sent to the Executive Appropriations Committee, the Health and Human Services Joint Appropriations Subcommittee and the Health and Human Services Interim Committee. The motion passed.

4. Reconsideration of School Closure Procedures Audit Request

Speaker Stephens told the Audit Subcommittee that since the approval of the request for an audit of School Closure Procedures, there has been a lawsuit filed.

Representative King expressed concern that the request for this audit did not have anything to do with the areas of the lawsuit and requested Wayne Welsh, Auditor General, to explain the provision that is left and how it relates to the audit request.

Mr. Welsh explained that the remaining provision, in the suit, is to review whether the school district exceeded its power of discretion to make their decision on which schools would be closed. Also, the suit is to review the process to see if it was consistent with statutory requirements.

Motion: Speaker Stephens made a motion that the request for an audit of School Closure Procedures be put on hold, pending the outcome of the lawsuit that has been filed. The motion passed.

5. Audit Requests

The Audit Subcommittee members discussed the two new requests for audits—U-TAX Project, requested by Representative Wayne Harper and the Local Mental Health System, requested by House Bill 3, General Session 2002. There was also a discussion as to whether to continue with the approved audit of the Judicial Conduct Commission.

Motion: Senator Dmitrich made a motion that the requests for an audits of the U-TAX Project and the Local Mental Health System be approved and placed as number two and three, respectively, on the Future Audits list and keep the Judicial Conduct Commission audit request as number one. The motion passed.

6. Adjournment

President Mansell adjourned the meeting at 5:00 p.m.