

# MINUTES

## REGULAR MEETING OF CALIFORNIA FAIR SERVICES AUTHORITY BOARD OF DIRECTORS

April 6, 2011

1776 Tribute Road, Suite 200, Sacramento, CA 95815

John Root, Board Member  
Public Member  
Rick Pickering, Board Member  
Alameda County Fair  
Brian Bullis, Board Member  
Mariposa County Fair (35–A DAA)  
Regina Goody, Board Member  
Yuba–Sutter Fair (13<sup>th</sup> DAA)  
Richard Persons, Board Member  
Lake County Fair (49<sup>th</sup> DAA)  
Patricia Conklin, Board Member  
Sonoma–Marin Fair (4<sup>th</sup> DAA)  
Rebecca Desmond, Board Member  
Division of Fairs & Expositions  
Donna Horner, Secretary/Treasurer  
California Fair Services Authority  
Rick Wood, Controller  
California Fair Services Authority  
Christy Layton, Legal Counsel to CFSA  
Miller & Owen

Donna Bardaro, Executive Director  
California Fair Services Authority  
Charlie Mitchell,  
California Fair Services Authority  
Tom Allen,  
California Fair Services Authority  
Tom Amberson,  
California Fair Services Authority  
Sue Leavitt,  
California Fair Services Authority  
Melissa Thurber,  
California Fair Services Authority  
Kevin Wright,  
California Fair Services Authority  
Raechelle Gibbons,  
California Fair Services Authority  
Derek Burkhalter,  
Bickmore Risk Services  
Kevin Wong,  
Gilbert Associates, Inc.  
Jamie Matthews,  
Gilbert Associates, Inc.

### I. CALL TO ORDER

A regular meeting of the California Fair Services Authority (“CFSA”) Board of Directors was convened, pursuant to the meeting notice at 10:03 a.m. in the conference room at 1776 Tribute Road, Suite 200, Sacramento, California on Wednesday, April 6, 2011.

## **II. APPROVAL OF MINUTES**

Moved by Director Persons and seconded by Director Desmond to adopt **Resolution No. 11-9** approving the minutes of the Regular Meeting of February 1, 2011, as presented to the Board of Directors. Motion passed unanimously.

## **III. 2010 ACTUARIAL REPORTS FOR GENERAL LIABILITY, WORKERS' COMPENSATION AND SPECIAL EVENTS LIABILITY**

Rick Wood, CFSA's Finance Director, introduced Derek Burkhalter representing Bickmore Risk Services. Mr. Burkhalter presented the Board with CFSA's 2010 actuarial reports for General Liability, Workers' Compensation, and Special Events Liability. The presentation included a discussion of the pools' estimated outstanding liabilities at December 31, 2010, the 2011 loss rate and projected losses, and the 2011 funding guidelines. In summary, Mr. Burkhalter reported that with regard to General Liability, the outstanding liabilities are down as loss development has been favorable since last year with assets above the 90% confidence level.

The Workers' Compensation loss development has been adverse again this year and has led to an increase in outstanding liabilities. Rates are up seven percent (7%) on average, leaving the Program's assets only slightly above the 75% confidence level. In the Special Events Program, increased ULAE (unallocated loss adjustment expenses) claims have increased outstanding liabilities, and projected costs are up in 2011 due to a higher frequency in recent years, however, assets still remain above the 80% confidence level.

Moved by Director Persons and seconded by Director Desmond to adopt **Resolution No. 11-10** accepting, as presented, the 2010 Actuarial Reports as presented from Bickmore Risk Services for General Liability, Workers' Compensation, and Special Events Liability dated February 9, 2011. Motion passed unanimously.

## **IV. 2010 AUDIT REPORT**

Rick Wood introduced Kevin Wong from Gilbert Associates, Inc., who served as the engagement partner, and Jamie Mathews, who supervised the planning and the management of the fieldwork team. Ms. Mathews presented the 2010 Audit Report which includes the audited financial statements and information on all programs under the control of CFSA. The financial statements were audited for the year ended December 31, 2010, and provide the Board with information regarding the scope and results of the audit to assist the Board in overseeing management's financial reporting and disclosure process.

The audit was conducted in accordance with the Generally Accepted Auditing Standards and was also conducted in accordance with Generally Accepted Government Auditing Standards in order to maintain CFSA's eligibility for California Association of Joint Powers Authorities (CAJPA) Accreditation with Excellence. This subsequent reporting provides an audit report on conditions noted in the areas of internal control and compliance with laws and regulations.

Director Conklin expressed concern regarding a duplicate payment having been made from the Property Protection Program addressed with the Auditor's Notes to the Financial Statement on pag 29 of the Audit Report. Reflected in the Auditor's notes, as of December 31, 2010, there is an outstanding receivable from the California Construction Authority ("CCA") owed to the Property Program of \$390,000. Due to the financial condition of CCA it is unlikely this amount will be collected and has been fully allowed for in the allowance for doubtful accounts.

Staff reported that payment was made to a vendor of the Napa County Fair for a shade structure and was also paid to CCA for them to pay for the shade structure. This resulted in different billings at different time to different accounts at CFSA.

Staff was instructed to send a letter to formally request payment from the California Construction Authority in the amount of \$390,000 for overpayment in connection with duplicate requests.

Moved by Director Pickering and seconded by Director Bullis to adopt **Resolution No. 11-11** accepting, as presented, the 2010 Audit Report from Gilbert Accountancy Corporation dated March 10, 2011. Motion passed unanimously.

## **V. 2010 GENERAL LIABILITY FEES**

Rick Wood, presented the proposed 2010 General Liability Risk Pool fees to the Board and explained that over the past ten years, the General Liability Program has experienced two years of adverse loss experience with the most recent year 2005. He went on to say that an adverse loss experience year is defined as a year when catastrophic losses or the cumulative effect of many average losses exceed the actuarially projected losses for that year. This type of occurrence is generally expected to happen one out of ten years and although it's early in the development process, 2006 through 2009 appear to be better than average claims years.

With conservative goals that have been set by CFSA, the General Liability Program has been able to increase the confidence margin from a low of 70% in 2004 to 80% in 2010.

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Due to a reclassification of fairs by the Division of Fairs and Expositions, and the resulting need for CFSA to make changes to the class structure to bring some fairs more in line with risk exposures, the 2011 overall base fee will be increased by 10% for fairs in classes one through four to bring them in line, on a percentage basis, with the three larger classes of fairs. Individual fairs' actual fees may increase or decrease from the previous year due to individual loss history. Staff recommends approval of the proposed 2010 General Liability Fees.

Moved by Director Pickering and seconded by Director Persons to adopt **Resolution No. 11–12** approving the 2011 General Liability Fee.

WHEREAS, CFSA has adopted conservative goals to keep General Liability Risk Program assets at the 80% confidence level and rebuild the equity or “adverse development fund” to an appropriate level as a reserve against adverse loss experience; and

WHEREAS, the Division of Fairs and Expositions reclassified numerous fairs in the Fair Classification Structure in 2010 resulting in the need to make changes to CFSA's 2011 class structure to better reflect the risk exposure within the Fair Classes;

NOW THEREFORE BE IT RESOLVED BY THE CALIFORNIA FAIR SERVICES AUTHORITY:

1. That the 2011 General Liability base fee be increase by 10% for fairs in classes one through four to bring them in line with risk exposure.

2. That the total projected General Liability fees for 2011 be assessed at approximately Two Million Two Hundred Twenty–Nine Thousand One Hundred Fifty Dollars (\$2,229,150.00), representing a 6.32% overall increase from 2010. Motion passed unanimously.

## **VI. 2011 WORKERS' COMPENSATION RATE**

Rick Wood reported that over the last ten years, the Workers' Compensation Program has experienced six years of adverse loss experience. Generally, this type of occurrence is expected to happen in one out of ten years. Conservative reserving practices has helped cover the majority of the adverse development. It appears that 2005 and 2006 will be better than the actuaries have projected, while 2007, 2008, 2009, and 2010 are trending upwards due to the higher costs of medical and adverse claims. The Program has made good

progress since 2004 by increasing the confidence margin from a low of 70% in 2004 to the current 80% level while lowering the base rate to 5.5% in 2008.

Recognizing the high claims costs from 2007 through 2010, and also acknowledging the economic climate our members are facing, it was recommended that the 2011 Workers' Compensation Risk Pool base rate increase to 5.75%, up from 5.5%, in 2010. Individual fairs' actual fees may increase or decrease from the previous year due to loss history and varying levels of payroll.

Discussion among Board members included suggestions from Director Conklin and Director Persons that the proposed increase may not be enough to cover loss projections while moving towards CFSA's Risk Pool Goals. After some calculations by Rick analyzing the cost of an increase to 6% of payroll, a compromise was reached to increase the Risk Pool base rate to 5.8% of payroll and volunteer wages.

Moved by Director Persons and seconded by Director Goody to approve the 2011 Workers' Compensation Rate

WHEREAS, CFSA has adopted conservative goals to implement a plan to bring the Workers' Compensation Program assets to the 80% confidence level and rebuild the equity or "adverse development fund" to an appropriate level as a reserve against adverse loss experience; and

WHEREAS, over the last ten years, the Workers' Compensation Program is projected to experience six years of adverse loss experience; and

WHEREAS, our conservative reserving practices have helped cover the majority of adverse development in the past; and

WHEREAS, due to the volatile nature of claims and the requirement to book losses at the actuarially projected value;

NOW THEREFORE BE IT RESOLVED BY THE CALIFORNIA FAIR SERVICES AUTHORITY:

That the Workers' Compensation base rate for 2011 be increased to 5.8% of payroll and volunteer wages, up from 5.5% in 2010. Motion passed unanimously.

## **VII. REVISIONS TO CFSA'S 2011 BUDGET**

Annually CFSA prepares and submits to the Board of Directors a calendar year budget. Once the annual Actuary Study and Financial Audit are complete, and if there are

significant changes, CFSA revises the Budget to reflect Actuary's recommended changes in estimated reserves for the current calendar year. CFSA also takes this opportunity to incorporate any known changes since the original budget was adopted.

Moved by Director Bullis and seconded by Director Desmond to adopt **Resolution NO. 11–14** approving CFSA's revised 2011 budget as presented to reflect the recommended changes by Bickmore Risk Services in estimated reserves for the 2011 calendar year, proposed changes in the Liability and Workers' Compensation rates for 2011, and a reduction in the rent revenues for 1776 Tribute Road Building. Motion passed unanimously.

#### **VIII. DELEGATION TO STRATEGIC PLANNING AND SUCCESSION PLANNING AD HOC COMMITTEE**

Chairman Root tabled this agenda item until the end of the Board meeting to accommodate those who would not be participating the discussion and Board action.

#### **IX. INFORMATIONAL ITEMS**

##### **1. Staff Reports**

**Administrative Services** — Content is being researched and written for CFSA's 2010 annual report. The report theme: CFSA: Now ~ More Than Ever focuses on the fact that even in challenging economic times, fairs still need what CFSA offers. Accidents still happen, payroll still needs to be paid, claims still need fair settlements. To save money, the majority of the photos featured in the annual report will be photos taken for previous years reports. In addition, fewer reports will be printed.

**Fair and Employee Surveys** At the request of CFSA's Strategic Planning Committee, two surveys were prepared and disseminated using the online Survey Monkey service.

Questions on the first survey evaluated fair management satisfaction with CFSA's services and programs. The respondents also had the opportunity to make anonymous comments and suggestions on ways to enhance and improve CFSA's offerings. This survey was emailed to all fair managers and second-in-command staff, including business assistants, assistant managers, deputy managers and maintenance supervisors.

The purpose of the second emailed survey was to evaluate CFSA employee satisfaction with their work environment and CFSA overall. Again, respondents were provided with an opportunity to make anonymous comments and suggestions.

Results from both surveys were tallied and provided to CFSA's Board of Directors for Strategic Planning.

**Consumer Protection Committee** CFSA is collaborating with WFA and F&E on the development of a Consumer Protection Toolkit for all California fairs. The toolkit, which will include signs, brochures and a video, focuses on hand washing as a key way to prevent e-coli related illness among fair animal exhibitors and the public.

**Finance**—CFSA's financial statements and quarterly investment portfolio required by Government Code Section 53646 were submitted to the Board and are in compliance with CFSA's investment policy. The financials exhibit the pools' ability to meet the expenditure requirements for the next six (6) months and include a schedule of the monthly investment transactions, in accordance with Government Code Section 53607.

**PST Program** CFSA acts as the pass through for the Part Time, Seasonal, and Temporary Employee (PST) program administered by the Department of Personnel Administration (DPA). For the calendar year 2010 the PST program saved the fairs \$1,002,815.59. Had the PST program not been in place, the Fairs would have paid Social Security taxes of \$1,107,751.04 instead of the \$104,935.45 in administration fees paid to DPA and CFSA. Of this fee, DPA collected \$57,773.45 and CFSA retained \$47,162 for administration of the program.

**Unemployment Insurance** On behalf of the Division of Fairs and Expositions (F&E), CFSA administers the Unemployment Insurance Reimbursement Fund for California fairs. F&E funds the Program in the amount of \$950,000 per fiscal year and the fairs are reimbursed a percentage of their unemployment insurance costs based on the fair's classification. As of March 29<sup>th</sup>, 2011 CFSA was holding \$683,708 for future UI reimbursements.

**FlexNet** CFSA provides accounting and IT services to members. Currently staff assists forty-eight (48) fairs and four (4) JPA's with various fiscal and accounting software needs.

**Risk Management** – CFSA staff is currently working on renewal of coverages that expire on July 1, 2011, including excess coverages for the Workers' Compensation and Pooled Property Protection Programs. As part of the renewal of the Property Program, the property schedules of all the fairs are being updated as needed.

**Pooled Property Protection Program** Since 2002 the Pooled Property Protection Program has had a total of seventy four (74) reported claims of which one (1) claim from 2008 remains open. The Division of Fairs and Expositions has committed funding for this program through the 2010-2011 fiscal year.

**Contract Review** Our Risk Analyst continues to process contracts received from DAA's as well as from other CFSA member fairs. For DAA's, all non-hazardous contracts over \$15,000 and up to \$75,000 for which liability insurance is required, and all hazardous contracts up to \$75,000 are sent directly to CFSA for insurance certificate review and approval. For all other member fairs, all fair contracts involving hazardous activities or all contracts over \$15,000 involving non-hazardous activities are submitted to CFSA for an insurance certificate review.

As of March 28, 2011, staff had reviewed 507 contracts, an increase of 120 contracts or 31% compared to 2010. CFSA continues its education efforts through participation in the FAST training seminar, reminding all member fairs to submit contracts for insurance certificate review and approval.

**Hazardous Special Events Program** Staff is in the process of renewing coverages for the rodeos/horse shows and motorized racing events in 2011. So far, twenty-two fairs have chosen to cover a total of 58 rodeo/horse show events; nineteen fairs have chosen to cover a total of 40 motorized racing events.

**Master Insurance Certificate List** CFSA regularly updates and distributes to all fairs, the Approved Master Insurance Certificate List of 670 plus vendors and contractors doing business with the network of California fairs. The list is distributed monthly via mail and email from February through October.

**Special Events** Revenues for the Special Events Program through the end of November 2010 totaled \$746,141, which is 94 % of the budgeted 2010 revenue, and represents a 2% increase from 2009.

Claims activity in the Special Events Program includes fourteen (14) open claims with total reserves of \$149,505 as of February 28, 2011, as compared with fourteen (14) open claims and \$102,805 in reserves as of December 31, 2010. There are no claims with reserves in excess of \$250,000. So far in 2011, there have been 2 new/reopened claims, and 2 claims were closed. There are currently five (5) litigated claims. Through the end of 2010, there were thirty-four (34) new loss reports, of which eight (8) were information only.

**General Liability** Claims activity includes thirty-nine (39) open claims with reserves of \$1,016,201 as of February 28, 2011. There are no claims with over \$500,000 in reserves. Seventeen (17) of these open claims are being litigated. For comparison, as of December 31, 2010, CFSA had thirty-seven (37) open claims with reserves of \$683,617. So far in 2011, CFSA has received five (5) new/reopened claims while closing five (5) claims. Through the end of February 2011, CFSA has received eleven (11) new loss reports, of which seven (7) were information only. As of the end of February, no tendered claims are being tracked.

**Safety** — February 2011 through April 2011 has resulted in staff involvement in various projects, including member training and fair inspections conducted at fair facilities for member fairs. These projects, training programs, and inspections are part of the value added safety services provided to all CFSA member fairs. The majority of services provided at member fairs over this three month period have been, or will be, Pre-Fair or program services such as training, development, or program enhancements. CFSA Pre-Fair and Fairtime visits often include training of temporary staff, as well as the bulk of the Fire and Life Safety inspections being done in cooperation with the California State Fire Marshal's office.

**Maintenance Mania** As in previous years, the Safety Department provided instruction and certification for member maintenance workers as a part of the Monday training program at both the Orange County and the El Dorado Fairgrounds. Classes conducted by CFSA staff include:

- Forklift Safety Training and Certification
- Forklift Safety Training and Re-Certification
- Class 7 (All Terrain) Forklift Safety Training and Certification
- Backhoe and Skid Steer Safety Training and Certification
- Aerial and Boom Lift Safety Training and Certification

This year CFSA also offered additional Safety Training using the Mar-Com Materials:

- Safety Orientation
- Ladder Safety
- Slips, Trips and Falls
- Accident Investigation
- Heat Stress

**FAST Conference** Tom Amberson will represent the CFSA Safety Department at the 2011 FAST Conference, presenting the Injury and Illness Prevention Program (IIPP). Tom Allen will participate in the “Resource Lab” to answer any questions about CFSA safety programs.

**CFSA Strategic Planning** Tom Allen and Tom Amberson participated in the CFSA strategic planning sessions conducted March 23<sup>rd</sup> and 24<sup>th</sup>.

**Workers’ Compensation** — As of February 28, 2011, total open claims reserves were \$10,218,643 (including pre-94 Cal Expo outstanding reserves of \$507,113). There were 188 open claims, of which 186 were indemnity claims and 25 were medical only (this includes one Information Only claim open for administrative purposes).

Donna Bardaro, CFSA’s Executive Director, reported briefly on current CFSA issues, which included:

**Strategic Planning** CFSA’s Board of Directors, alternates, and senior staff met on March 23 and 24, 2011 to begin strategic planning. The two day session covered strengths, weaknesses, expectations, opportunities, threats, goals, and succession planning. The goal is to have the notes of the session available for the Strategic Planning and Succession Planning Ad Hoc Committee prior to the April 6<sup>th</sup> Board Meeting.

**2011 Claims Audit Results** CFSA continues to exceed the industry standards as reported in both the General Liability and Workers’ Compensation claims audits conducted in February 2011.

**The Liability Claim Audit** included a 100% review of the fifty five (55) currently open claims. The auditor’s conclusion was that the Risk Manager Charles Mitchell and the Senior Liability Claims Examiner Rosalyn Johnson demonstrate a keen sense of urgency regarding claim investigation and the disposition of adverse liability claims including a very aggressive approach toward the defense of

non-meritorious claims and litigation. The claims program reflects significant cost-effectiveness with a low litigation ratio and disposition of many claims while unrepresented by legal counsel. There were no negative patterns or trends identified as a result of this audit.

***The Workers' Compensation Audit*** included a review of 78% of the active open Indemnity claims, a total of fifty seven (57), as well as a sampling of six (6) open future medical claims. The auditor concluded that there is continued demonstration of urgency regarding claimant contact, medical case management, initiation and maintenance of benefits to injured workers, and an aggressive approach toward disposition of permanent disability issues. Non-meritorious claims and litigation are being defended aggressively.

While the Workers' Compensation claim administration continues to exceed claim industry standards in most areas of performance, there has been some lessening of claim file documentation by our examiner as her focus was diverted for some time near the end of 2010 in order to prepare for a state audit. It appears that claim file reporting and documentation suffered as a result. An action plan is already in place to bring the workers' compensation claim file documentation back to the previous above standards level.

### **3. Next Board Meeting**

The next regular Board meeting is scheduled for Wednesday June 1, 2011.

## **X. CLOSED SESSION/EXECUTIVE SESSION**

The Board adjourned from regular session at 2:12 p.m. and went into executive session to discuss the liability claims involving Rick Dorey; Angela Malos, Maliyah Martin & Cody Robinson; Marcia Rhoads; Harold Carter; and Cira Arteaga; and the workers' compensation claims involving David Castillo; and Jorge Melendez; and to discuss the Executive Director's performance.

## **XI. REGULAR SESSION**

The Board adjourned from executive session at 3:02 p.m. and regular session was reconvened. The Board took no reportable action on the liability, workers' compensation claims or the public employee performance evaluation of the Executive Director (workload, and job description).

## **XII. DELEGATION TO STRATEGIC PLANNING AND SUCCESSION PLANNING AD HOC COMMITTEE**

Christy Layton, CFSA Legal Counsel, was asked to summarize the Ad Hoc Committee meeting which took place this morning prior to CFSA's Regular Board Meeting with respect to the recruitment process. The Committee discussed the recruitment process in general and the benefits to using a professional recruiter to guide and manage the process. The Committee looked at the current salary range for the executive director's position, discussed that a salary survey for the position could be a component of a recruiting contract. That type of survey would usually involve checking whether the current salary range accurately reflects the current market conditions. However, the Committee did not come to a conclusion one way or another on the salary survey aspect of the contract.

The Committee wants to solicit comments from the full Board on a recruiting contract and also the scope of work with a not to exceed amount for the contract. Additionally, the Committee would like the Board to consider delegating authority to the Committee to select a recruiting firm.

Christy provided information from her research indicating that a ballpark range for a typical recruitment effort would be \$20,000 to \$23,000 which would include the recruiter's time and the various expenses which would include preparation of a brochure and advertising. If a salary survey was added to the scope of work, an estimated cost of \$5,000 to \$10,000 would be added to the cost of the contract depending on how extensive a survey was conducted.

Christy also informed the Board that under CFSA's contracting procedures, there is no requirement for CFSA to go out with a formal request for proposals to obtain a recruiter. The option that the Committee recommends is that the Committee send out a request for quotations to several select firms and to get quotations, qualifications and proposals.

Director Root asked for input and direction from the Board. Director Conklin proceeded to make a motion giving the Ad Hoc Committee direction and authority to select a recruitment firm. Director Conklin expressed concern that there was no budgeted amount in CFSA's 2011 budget to pay for a professional recruiter or an associated salary survey in the selection of a new executive director and was reluctant to approve the additional costs associated with a salary study. Members of the Board determined that the current salary range for the Executive Director's position was adequate and they did not want to incur the added expense of a salary study.

Christy told the Board that she had been directed by the previous Board in November of last year to obtain salary information with regard to the Executive Director's position. She determined that a salary survey was conducted in the fall of 2010 and obtained a copy of the nationwide survey conducted by AGRIP of Risk Pool CEOs, including seventeen (17) California pools that had responded at the time of the survey. Christy confirmed that the

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AGRIP survey includes salary alone and not the value of benefits. It appears that the AGRIP California salary range and the current salary range for CFSA's Executive Director are comparable.

Director Root pointed out that a recruiter could review this information in the process of reviewing the position. Director Conklin felt that the salary range was adequate and that likely there would be numerous applicants applying for the position and that there would be no reason to have the recruiter conduct a salary survey.

Moved by Director Conklin and seconded by Director Bullis to delegate authority to the Strategic Planning and Succession Planning Ad Hoc Committee for the selection of a recruitment firm for the executive director's position and to: 1) proceed to contract with a professional recruiting firm to recruit a new executive director with a scope of work not to include a salary survey; and, 2) enter into a contract in an amount not to exceed Twenty-three Thousand Dollars (\$23,000.00). Members present to vote included Directors Root, Goody, Bullis, and Conklin. Motion passed unanimously.

### **XIII. ADJOURNMENT**

Moved by Director Conklin and seconded by Director Bullis to adjourn. The meeting was adjourned at 3:15 p.m.

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**CHAIR**

**ATTEST:**

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**SECRETARY**