

MINUTES

SPECIAL MEETING OF CALIFORNIA FAIR SERVICES AUTHORITY BOARD OF DIRECTORS

April 7, 2009

1776 Tribute Road, Suite 200, Sacramento, CA 95815

Kelley Ferreira, Board Member
San Benito County Fair (33rd DAA)
Barbara Boester–Quaid (31st DAA)
Ventura County Fair
Brian Bullis, Board Member
Mariposa County Fair (35–A DAA)
Regina Goody, Board Member
Yuba–Sutter Fair (13th DAA)
John Root, Board Member
Public Member
Bruce Lim, 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 & Trost

Donna Bardaro, Executive Director
California Fair Services Authority
Charlie Mitchell,
California Fair Services Authority
Tom Allen,
California Fair Services Authority
Sue Leavitt,
California Fair Services Authority
Tom Amberson,
California Fair Services Authority
Melissa Thurber,
California Fair Services Authority
Raechelle Gibbons,
California Fair Services Authority
Trish Strawn
Alternate Public Member (Visiting)
Mike Harrington,
Bickmore Risk Services
Kevin Wong,
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 10:00 a.m. in the conference room at 1776 Tribute Road, Suite 200, Sacramento, California on Tuesday, April 7, 2009.

II. APPROVAL OF MINUTES

Moved by Director Root and seconded by Director Goody to adopt **Resolution Number 09–07** approving the minutes of the regular meeting of February 2, 2009, as presented to the Board of Directors. Motion passed unanimously.

III. 2008 ACTUARIAL REPORTS FOR GENERAL LIABILITY, WORKERS' COMPENSATION, AND SPECIAL EVENTS LIABILITY

Rick Wood, CFSA's Finance Director, introduced Mike Harrington representing Bickmore Risk Services. Mr. Harrington presented the Board with CFSA's 2008 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, 2008, the 2009 loss rate and projected losses, and 2009 funding guidelines. In summary, Mr. Harrington reported that with regard to General Liability, the outstanding liabilities are down as loss development has been favorable since last year and that the Workers' Compensation's adverse development has led to an increase in both outstanding liabilities and rates.

Moved by Director Goody and seconded by Director Boester–Quaid to adopt **Resolution Number 09–08** accepting, as presented, the 2008 Actuarial Reports from Bickmore Risk Services for General Liability, Workers' Compensation, and Special Events Liability dated February 18, 2009. Motion passed unanimously.

IV. 2008 AUDIT REPORT

Rick Wood introduced Kevin Wong, from Gilbert Associates, Inc., who served as the engagement partner on CFSA's audit and supervised the planning and the management of the fieldwork team. Mr. Wong presented the 2008 Audit Report which includes the audited financial statements and information on all programs under the control of CFSA. The audit was conducted in accordance with 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.

Moved by Director Root and seconded by Director Bullis to adopt **Resolution Number 09–09** accepting, as presented, the 2008 Audit Report from Gilbert Accountancy Corporation dated March 18, 2009. Motion passed unanimously.

V. 2009 GENERAL LIABILITY FEES

Rick Wood, presented the proposed 2009 General Liability Risk Pool fees to the Board and explained that over the past ten years, the General Liability Program has experienced three 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 while CFSA's conservative practices have helped weather this storm, this pattern has seriously eroded reserves. Although early in the development process, 2006 through 2008 appear to be better than average claims years helping the overall reserves.

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 90% in 2008 and the Adverse Development Fund has grown from near depletion to 27.66% of the funding goal and 60.26% of the reserve goal. The cost and terms of the 2008 and 2009 General Liability excess insurance policies improved significantly and the Self-Insured Retention was reduced from \$1,000,000 per occurrence to \$750,000 per occurrence resulting in a decrease in the total proposed 2009 General Liability fees of 1.47%. Staff recommends approval of the proposed 2009 General Liability Fees.

Moved by Director Goody and seconded by Director Root to adopt **Resolution Number 09-10** approving the 2009 General Liability Fees.

WHEREAS, over the past ten (10) years, CFSA has experienced three (3) years of adverse loss experience; and

WHEREAS, CFSA's goal is to implement a five year plan to bring General Liability Risk Program assets back to the desired confidence level and rebuild the equity or "adverse development fund" to an appropriate level as a reserve against adverse loss experience; and

WHEREAS, the cost of excess insurance has improved significantly, and our self-insured retention level is \$750,000 per occurrence for 2009; and

WHEREAS, two significant changes were made to the General Liability Risk Program in 2008 to better reflect the risk exposure within each Fair Class I through V and narrow the range of fees; and

WHEREAS, the General Liability Risk Program has realized a 1.47% decrease in 2009;

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

1. That the 2009 General Liability base fee remain the same as 2008.
2. That the total projected General Liability fees for 2009 be assessed at approximately Two Million One Hundred Three Thousand Three Hundred Fifty Dollars (\$2,103,350.00). Motion passed unanimously.

VI. 2009 WORKERS' COMPENSATION RATE

Rick Wood reported that over the last ten years, the Workers' Compensation Program has experienced four years of adverse loss experience from 2000 through 2003. Generally, this type of occurrence is expected to happen in one out of ten years, not four years in a row. As with the General Liability Program, conservative reserving practices helped cover the majority of the adverse development, however, in 2003 CFSA was forced to raise the base rate for the first time in thirteen years. The good news is that it appears that 2005 and 2006 through 2007 will be substantially better than the actuaries have projected which will help with the Agency's five (5) year plan in rebuilding the Adverse Development Fund. However, 2007 and 2008 appear to be trending upwards due to the higher costs of medical care and two adverse claims from a withdrawing member.

The Program has made great progress by increasing the confidence margin from a low of 70% in 2004 to the current 90% level while lowering the base rate from 6% in 2005 to 5.5% in 2008. The Adverse Development Fund has grown from near depletion to just over 57% of the Program's ultimate goal.

Even with the projected upward trend in claims costs for 2007 and 2008, and the withdrawal of the Los Angeles County Fair, the Pool's largest risk exposure, staff is recommending that the 2009 Workers' Compensation Risk Pool fees remain at the 2008 rate of 5.5%. Individual fairs' actual fees may increase or decrease from the previous year due to loss history and varying levels of payroll.

Moved by Director Root and seconded by Director Bullis to adopt **Resolution No. 09-11** approving the 2009 Workers' Compensation Rate.

WHEREAS, over the last ten years, CFSA's Workers' Compensation Program has experienced four years of adverse loss experience from 2000 through 2003; and

WHEREAS, in 2005 the modification fee formula was adjusted and the Workers' Compensation fee assessment was increased by twenty three percent (23%) which included increasing the base rate from 5.75% to 6%; and

WHEREAS, in 2006 CFSA's goal was to implement a five year plan to bring the Workers' Compensation Program assets back to the desired confidence level and rebuild the equity or "adverse development fund" to an appropriate level as a reserve against adverse loss experience; and

WHEREAS, it appears that 2005 through 2007 will be better loss experience years than projected by the actuaries thereby aiding in the Agency's five year plan to rebuild the Workers' Compensation Program's Adverse Development Fund; and

WHEREAS, the cost of 2009 excess insurance policy is projected to be \$50,000 lower than the 2008 excess policy;

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

That the Workers' Compensation base rate for 2009 will remain at 5.5% of payroll and volunteer wages. Motion passed unanimously.

VII. PRE-FUNDING OF CFSA'S OTHER POST EMPLOYMENT BENEFITS

Rick Wood reviewed with the Board CFSA's requirement, as a public agency, to abide by the accounting statements issued by the Governmental Accounting Standards Board ("GASB"). GASB Statement 45 requires public agencies to either fund or record on the balance sheets a restricted reserve for Other Post Employment Benefits ("OPEB"). OPEB is defined as the employer paid benefits a retiree will receive once meeting retirement requirements and actually retiring from the agency.

The intention of GASB 45 is to insure that retirees will have the necessary funds available to pay their earned OPEB for the full duration of retirement, even in the event the employer ceases to exist. CFSA will be required to implement GASB 45 in 2009 and the necessary funding was approved by the Board with the adoption of CFSA's 2009 budget at the November, 2008 Board meeting. All OPEB funds must be transferred to a third party trustee for management. Staff has selected CalPERS to be the trustee through their California Employer's Retiree Benefit Trust Program ("CERBT") and the Board must enter into an agreement with CalPERS to be the third party trustee.

Staff recommends that the Board approve the Agreement and Election to Pre-fund Other Post Employment Benefits through CalPERS and the CalPERS Delegation of Authority to Request Disbursements from OPEB Pre-funding Plan.

Moved by Director Boester-Quaid and seconded by Director Goody to adopt **Resolution Number 09-12** approving the CalPERS Delegation of Authority to Request Disbursements. Motion passed unanimously.

VIII. INFORMATIONAL ITEMS

1. Staff Reports

Administrative Services—Staff has worked in conjunction with WFA to share in customer service training with all the fair-related agencies (F&E, WFA, CARF, & CCA). The training will be given by Scott Deming, an excellent keynote speaker from the WFA 2009 Convention in Reno. With everyone having a tight budget this year, staff would like to maximize efforts to better serve the needs of the fairs.

2008 Annual Report Work is continuing on the 2008 annual report. This year's report focuses on the ongoing stability, flexibility, and value of CFSA's programs and services for all California fairs.

Maintenance Mania Web Site Now that Maintenance Mania 2009 is over, a recap of the event will be added to the Web site along with dates and locations for Maintenance Mania 2010. Included in the recap will be a short interview with a carnival owner whose employees participated in several training sessions, and photos and a short video taken during the event at the Gold Country Fair.

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.

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 fairs are reimbursed a

percentage of their unemployment insurance costs based on the fair's classification. For the fiscal year July 1, 2008 to June 30, 2009, fairs in classes I and II are projected to receive 100% reimbursement, classes III and IV a 60% reimbursement, and classes V through VII a 25% reimbursement of their unemployment insurance costs.

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 month ending February 2009 the PST Program has saved the fairs \$45,085.35. Had the PST Program not been in place, the fairs would have paid Social Security taxes of \$51,448.85 compared to the administration fees of \$6,363.50 paid to DPA and CFSA. Of this administration fee, DPA collected \$3,503.50 and CFSA retained \$2,860 for administration of the program.

Accounting Services CFSA finance staff currently provides a variety of accounting services to 48 fairs including payroll, payroll taxes, accounts payable, accounts receivable, fixed asset management, bank reconciliations, CalPERS reporting, and financial statements. In addition, staff processed and assisted 26 fairs in submitting their 2008 annual F&E Statement of Operations reports that were due by March 2, 2009.

Risk Management — Staff is currently working on renewal of coverages that expire on July 1, 2009, including excess coverages for the Workers' Compensation and Pooled Property Protection Programs. As part of the renewal of the Property Program, the property schedules at all fairs are being updated as the underwriter is requiring additional information on all covered fair buildings.

Pooled Property Protection Program Since 2002, the Pooled Property Protection Program has had a total of sixty-two(62) reported claims of which eight (8) are open. The open claims consist of one (1) loss in 2006, one (1) loss in 2007, and four (4) losses in 2008 and three (3) losses in 2009. The one remaining loss in 2007 and one loss in 2008 are in the final stages of being closed. The three (3) reported losses in 2009 include two (2) losses from fire and one (1) loss from windstorm. On March 16, 2009, a fire of suspicious origin resulted in the total destruction of the Clark Auditorium at the Chowchilla–Madera County Fair. It is currently estimated that the loss will exceed \$2 million to replace the building. The self-insured retention for this loss is \$200,000 with the fair having a \$20,000 deductible for real property and no personal property coverage. It is

currently estimated that the Pool could pay at least \$235,000 or more on the eight (8) open claims.

Contract Review Our Risk Analyst continues to process contracts received from DAAs as well as from other CFSA member fairs. For DAAs, 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. Staff continues to focus on getting all member fairs in the Liability Program to submit their contracts for insurance certificate review and approval.

Special Events Revenues for the Special Events Program through the end of February 2009 totaled \$75,620 which is 10% of the budgeted 2009 revenue of \$795,000. For the first two (2) months in 2008, the revenue was \$79,113 representing a four percent (4%) decrease in revenues. Total revenues in 2008 were \$771,528 or 97% of the budgeted revenue of \$795,000.

Claims activity in the Special Events Program included four (4) open claims with total reserves of \$63,984 as of February 28, 2009 as compared with six (6) open claims and \$102,702 in reserves as of December 31, 2008. There are no claims with reserves in excess of \$250,000. There have been no claims received or reopened in 2009 and three (3) claims were closed. There is currently one (1) litigated claim. For comparison, in 2008 there were fourteen (14) new claims received, and seventeen (17) claims were closed.

General Liability Claims activity includes 21 open claims with reserves of \$1,106,651 as of February 28, 2009. There is one (1) claim with over \$500,000 in reserves. Thirteen of these open claims are being litigated. For comparison, as of December 31, 2008, CFSA had 25 open claims with reserves of \$1,130,588. In 2009, CFSA received one (1) new/reopened claim while five (5) have been closed. Through the end of February 2009, CFSA received eight (8) new loss reports, of which seven (7) were information only reports.

Safety — March 2009 through April 2009, has resulted in staff involvement in various projects, including member training and fair inspections conducted

at fair facilities for member fairs. These projects are all part of the many safety services provided to member fairs. Safety consultations and services includes: 1) safety programs review and development planning meetings with fair CEOs and staff; 2) pre-fair walkthroughs and risk reviews; 3) consultations including fairtime safety, risk control consultations, and ergonomics and VDT evaluations; 4) special staff training for boom-lift, forklift and operator certification, fire extinguisher, and CPR/First Aid training; 5) assistance with fair staff in IIPP development and staff training; 6) emergency planning training; and 7) Hazardous Communications Program with initial training.

Maintenance Mania Once again, staff participated in the 2009 Maintenance Mania held at the Ventura County fairgrounds on February 23 through 26 and at the Gold Country Fair March 16 through 19. Staff provided an extensive amount of training on each Monday of the event. Classes included First Aid & CPR Certification, forklift certifications and re-certifications, boom-lift & aerial platform safety training, and all terrain lift truck training and certification. Maintenance Mania allows CFSA to provide training services to numerous member fairs at one time and in one location. Charlie Wiglesworth continues to do a great job as the CFSA representative on the Maintenance Mania Committee. His hard work and dedication lends itself to the continued success of this program.

Workers' Compensation — As of February 28, 2009, total open claims reserves were \$6,293,201 (including pre-94 Cal Expo outstanding reserves of \$557,870.) There were 161 open claims, of which 125 were indemnity claims and 35 medical only (this includes one Information Only claim open for administrative purposes).

Employee Rights Benefits Pamphlets Changes in the workers' compensation pamphlet entitled "*Your Rights to Workers' Compensation Benefits and How to Obtain Them*" has prompted CFSA to produce revised pamphlets, in both English and Spanish for distribution to all employees at member fairs.

2. **Executive Director's Report**

Donna Bardaro, reported briefly on current CFSA issues which included:

2009 Claims Audit Results — CFSA continues to exceed industry standards as reported in both the General Liability and Workers'

Compensation claims audits which were conducted in February 2009. The Liability claims audit included 28 open claims representing 100% of current open claims as well as eleven recently closed claims. The audit included interviews and evaluations of the performance of CFSA's Risk Manager and the Liability Claims Examiner. The auditor found a continued high sense of urgency regarding claimant contact, investigation and disposition of adverse liability claims, coupled with the very aggressive approach of defense of non-meritorious claims and litigation, making the liability claim administration outstanding.

The Workers' Compensation audit included a review of 63 open indemnity claims representing 50% of the current open, active indemnity claims with 80% of indemnity reserves open at the time of the audit. The performance of the Claims Administrator and the Claims Assistant were evaluated, as well as the claim systems and procedures. The auditor concluded that the claim staff operates with a sense of urgency regarding claimant contact, medical case management, initiation and maintenance of workers' compensation benefits to injured workers and an aggressive approach toward disposition of claims. Claims were very well documented and reserving philosophy and practice continue to be sound.

CalPERS Audit — Last year the Board of Administration of the California Public Employees' Retirement System requested the Office of Audit Services to review CFSA's member earnings and health benefits and retirement enrollment reporting procedures under contract with CalPERS. The objective of the review was to ensure agency compliance with applicable sections of the California Government Code and Title 2 of the California Code of Regulations and prescribed reporting and enrollment procedures for retirement and health benefits were being followed.

A final report was issued in December 2008 which stated that during the review period (January 1, 2005 through December 31, 2007), CFSA appropriately enrolled individuals, timely submitted health and retirement contributions, accurately reported member earnings and provided required documentation to CalPERS for the employees included in their test sample. The only exceptions were a few minor housekeeping adjustments (which have already been corrected) and one issue pertaining to a contract employee assigned to work at WFA.

Staff challenged the Office of Audit Services findings regarding the contract employee and on February 17, 2009, CFSA received a final report accepting the representation that the contract employee assigned to work at WFA was indeed an employee of CFSA. This employee has since retired and CFSA has no plans to enter into another agreement with WFA.

3. Next Board Meeting

The next Board meeting is scheduled for August 27, 2009.

IX. EXECUTIVE SESSION

The Board adjourned from regular session at 12:23 p.m. and went into executive session to discuss liability claims involving Angela Malos, Maliyah Martin & Cody Robinson; and, Maurice Bedard, Agricola Valdovinos, & Paul Zwierski; AMCO Insurance Company and a workers' compensation claim involving Filiberto Salinas.

X. REGULAR SESSION

The Board adjourned from executive session at 12:35 p.m. and regular session was reconvened. The Board took no reportable action on the liability or workers' compensation claims.

XI. ADJOURNMENT

Moved by Director Root and seconded by Director Goody to adjourn. The meeting was adjourned at 12:36 p.m.

CHAIR

ATTEST:

SECRETARY