

MINUTES

SPECIAL MEETING OF CALIFORNIA FAIR SERVICES AUTHORITY BOARD OF DIRECTORS

August 23, 2006

1776 Tribute Road, Suite 200, Sacramento, CA 95815

Kelley Ferreira, Board Member
San Benito County Fair (33rd DAA)
Forrest White, Board Member
San Joaquin County Fair (2nd DAA)
Rebecca Desmond, Board Member
Siskiyou Golden Fair (10th DAA)
Rick Pickering, Board Member
Alameda County Agricultural Fair
Lonny Wunder, Board Member
Yolo County Fair (40th DAA)
George Gomes, Board Member
California Farm Bureau
Bruce Lim, Board Member
Division of Fairs & Expositions
Donna Horner, Secretary/Treasurer
California Fair Services Authority
Rick Wood, Controller
California Fair Services Authority

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
Melissa Thurber,
California Fair Services Authority
Tom Amberson,
California Fair Services Authority
John Kelly,
California Fair Services Authority
Alan Payne,
California Fair Services Authority
Christy Layton, Legal Counsel to CFSA
Miller, Owen & Trost
Harry Mason,
Brass Ring Amusements, Inc.

I. CALL TO ORDER

A special meeting of the California Fair Services Authority ("CFSA") Board of Directors was convened, pursuant to the meeting notice at 1:36 p.m. in the conference room at 1776 Tribute Road, Suite 200, Sacramento, California on Wednesday, August 23, 2006.

II. APPROVAL OF MINUTES

Moved by Director Desmond and seconded by Director Wunder to adopt **Resolution Number 06-15** approving the minutes of the special meeting of August 23, 2006, as presented to the Board of Directors. Motion passed unanimously.

III. CFSA'S REVISED CONTRACT AND PURCHASING PROCEDURES

Since the last revision to CFSA's Contract and Purchasing Procedures, there have been several changes in the law and in local agency purchasing practices which necessitate modifications to CFSA's Procedures. Proposed changes include: 1) modifying the informal bidding process for construction contracts between \$25,000 and \$100,000 up from the prior range of \$25,000 to \$75,000; 2) deletion of the required exception for large projects requiring a payment bond; and, 3) increasing the threshold for formal advertised bidding for supplies and equipment to \$75,000 and above and requiring informal written quotations for supplies and equipment estimated to cost less than \$75,000.

Moved by Director White and seconded by Director Desmond to adopt **Resolution Number 06-16** approving CFSA's Revised Contract and Purchasing Procedures.

Whereas, it has been seven years since CFSA's Contract and Purchasing Procedures were last revised; and

Whereas, there have been several changes in the law and in local agency purchasing practices which necessitate modification to CFSA's Procedures; and

Whereas, based on a review of current practices of counties with purchasing agents, it appears that our threshold for the formal bidding of supplies and equipment should be increased;

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

That CFSA's Contract and Purchasing Procedures dated August 23, 2006, are hereby approved. Motion passed unanimously.

IV. APPOINTMENT OF 2007 BUDGET COMMITTEE

Donna Bardaro, CFSA's Executive Director, shared with the Board past practices in the selection and appointment of the Budget Committee. She also explained the role of the Budget Committee, consisting of three (3) members and one alternate member, is to work with CFSA staff on internal budget issues and future program direction, including review and comment on a draft budget package prior to presentation to the full Board for approval.

Moved by Director Gomes and seconded by Director White to adopt **Resolution Number 06-17** appointing Directors Ferreira, Pickering and Wunder to serve on CFSA's 2007 Budget Committee and Director Gomes to serve as the alternate member of the Budget Committee. Motion passed unanimously.

V. INFORMATIONAL ITEMS

1. Report on Revenue Protection Program Claims Committee

Rick Wood reported that the Revenue Protection Program Claims Committee met on August 23, 2006, (prior to the Board Meeting) to consider seven (7) claims, and review the fund's balance. All claims considered and approved by the Committee were due to extraordinary climatic conditions and include the following fairs: 1) Salinas Valley Fair in the amount of \$42,562.89 based on severe rain; 2) San Joaquin Fair in the amount of \$232,507.62 based on excessive heat; 3) Calaveras County Fair in the amount of \$62,697.65 based on severe rain; 4) Sonoma-Marin Fair in the amount of \$52,675.97 based on unhealthy air quality and excessive heat; 5) Merced County Fair in the amount of \$50,000 (the actual claim was for \$106,350.79, but the fair only purchased \$50,000 in coverage) based on extreme heat; 6) Placer County Fair in the amount of \$73,804.00 based on extreme heat; and, 7) Chowchilla-Madera Fair in the amount of \$15,872.85 based on heavy rain. As of August 23, 2006, the Revenue Protection Program's fund balance is \$3,391,927.13.

2. Review of CFSA's Election Process

The terms of two (2) elected CFSA directors will expire at the end of 2006: Kelley Ferreira, representing Fair Classes 1-2 and Forrest White, representing Fair Classes 3-7. In addition, the terms of the fair manager representative serving on the Revenue Protection Program Claims

Committee, Rich Persons (who was first alternate and is completing Trish Strawn's term), and Brock Wimberley (second alternate) will also expire December 31, 2006.

On August 28th, a Notice of Election will go out to all CFSA fair boards requesting verification of their current fair elector or instructing them to issue a resolution appointing a new elector no later than sixty (60) days of the Notice.

Director Ferreira, Chair of the CFSA Board of Directors must appoint and chair a Nominating Committee composed of an even number of not less than two (2) and no more than six (6) individuals from among the fair managers and directors of CFSA member fairs. The Committee will meet between November 1st and November 6th to determine who will appear on the Board ballots.

No later than November 6th the Nominating Committee should nominate at least two (2) individuals from each group of fairs (fair classifications 1 and 2 and fair classifications 3 through 7) from the pertinent pool of electors for each open slot. The Committee must also select nominees for the fair manager representative for the Revenue Protection Program Claims Committee. Once all nominees have been selected, the Nominating Committee will forward the names of the nominees to CFSA to be placed on the appropriate ballots.

The ballots will be mailed out to all electors, named by resolution, no later than November 17, 2006. The electors will have fourteen (14) days to vote. Ballots, due December 4th, will be tallied and election results will be communicated to the Nominating Committee, successful candidates, and announced to all member fairs.

3. Modification to Carnival Ride Inspections

Tom Allen, CFSA's Safety Manager, presented the Board with proposed changes to the Carnival Inspection Program. The mechanical inspection portion of the Carnival Ride Program was temporarily halted to test staff's belief that by focusing on the operational phase of carnival safety services rather than the hands-on inspection prior to fair, it would allow increased fair time support to more fairs and provide extensive safety services including safety training and safety consulting services for member fairs throughout the year.

Under the existing program, member fairs request CFSA safety personnel to conduct fair time inspections and safety support including carnival ride hands-on inspections and reporting to both the carnival company and the fair. During the course of these inspections, guidance is given to the carnival company and is perceived by the carnival companies as directive in nature based on visual and hands-on inspections. CFSA safety inspectors base inspections on both manufacturers' specifications and their own experience. Although the inspections do not identify major items, they are considered to be approvals by both the carnival company and the fair to operate the ride. At the present time, approximately 30% of member fairs receive this service averaging between two and four inspectors to conduct the inspections as the inspection for each carnival ride varies between one to four hours.

Tom explained that the new proposed program would increase benefits to over twice the members each year and would streamline how fair time inspections are supported. Services would continue to be provided for Carnival Ride safety and general fair safety, but the proposed program will reflect the requirement that Carnival Rides are self-insured and that general fair safety is insured by CFSA. Most importantly, the proposed program acknowledges that CFSA and member fairs have experienced no losses from carnivals even though the current program requires 70% of CFSA safety personnel resources leaving only 30% of its safety personnel resources to help fairs reduce 100 percent of pool losses.

Tom outlined three options for the Board which included: 1) Continuing the Program as it exists; 2) Modifying the Program to a tailored approach; and, 3) Modifying the Program for the maximum benefits to its members.

After discussion, it was agreed to hold a Risk Advisory meeting during the CFA Conference scheduled in Ventura to get input from member fairs and carnival operators alike relative to the impact of staff's proposed changes. Staff will report back to the Board on industry input.

4. Staff Reports

Administrative Services — The script for the third in our series of claims/safety-related videos is currently being written, with production to begin tentatively in September. The video will include an overview of the Injury and Illness Prevention Program required of all California employers, a recap of how to do an accident investigation (with an "employee" slant), and a section on filling out workers' compensation-related forms required by the State of California and CFSA.

Computer Services To facilitate the fairs' timely notification of both the Workers' Compensation Claim Form 5020 and the Liability Claims Accident Report, staff has created online forms that can be completed and submitted directly to CFSA. The forms are available on the CFSA Web site at www.cfsa.org.

Annual Report Our 2005 annual report, "Discover," is done and copies have been distributed to our board members, all fair CEOs and directors, and to the other agencies. This is the agency's 20th anniversary and the 2006 annual report will make the perfect place for a 20-year timeline of CFSA's achievements. Because of the time it will take to compile the dates and events, we've already begun the research phase.

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. Staff also included 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. The fairs are reimbursed a percentage of their unemployment insurance costs based on the fair's classification. From July 1, 2005, to August 11, 2006, CFSA reimbursed 63 fairs \$1,182,208.00. For the fiscal year July 1, 2005 to June 30, 2006, fairs in classes I and II are projected to receive 100% reimbursement, classes III and IV will receive a 75% reimbursement, and classes V through VII will receive a 50% 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 calendar year 2006 the PST Program saved the fairs \$336,694.00. Had the PST Program not been in place, the fairs would have paid Social Security taxes of \$377,096 compared to the administration fees of \$40,410 paid to DPA and CFSA. Of this administration fee, DPA collected \$22,243 and CFSA retained \$18,158 for administration of the program.

GASB 45 CalPERS has chosen to comply with GASB 45 and become an “Other Post Employment Benefits” (OPEB) trustee for any interested State/Public Agencies. As part of the program, CalPERS will also offer actuarial services to its members. Staff continues to actively research this issue and will budget funds in 2007 to perform an OPEB actuary study, through CalPERS, to determine CFSA’s liability. This task should be able to be completed by the Spring of 2007.

Property Insurance On behalf of F&E, CFSA administers the Property Insurance Program. Property values have nearly doubled since 1995 and the costs associated with the excess insurance policy have increased. The current revenue stream will only sustain the program for one more year. Staff is exploring, along with F&E, options for continuing the program for future years.

Risk Management — Staff has completed renewal of the excess coverages that expired on July 1, 2006. These coverages include excess coverage for the Workers’ Compensation and Pooled Property Protection Programs. The Renewal premium for the Workers’ Compensation excess insurance was \$283,566 which included a premium credit of \$21,083 (CFSA now participates in the Excess Workers’ Compensation Program of the CSAC Excess Insurance Authority) and a credit of \$6,112 for the Agency’s CAJPA accreditation. The renewal of the Pooled Property Protection was \$679,882 including the broker fee. The increase in cost reflects a significant hardening in the property insurance market as a result of hurricane losses in 2005.

The Pooled Property Protection Program has had a total of 13 covered claims, including three covered claims so far in 2006. Two of the covered claims are flood claims in 2005 and 2006. It is currently estimated that the Pool could pay up to \$600,000 on the open claims. Staff continues to work with individual fairs and the California Construction Authority to resolve the open claims.

Special Events Revenues for the Special Events Program through the end of July 2006 totaled \$451,863 which is 65% of budgeted 2006 revenue of \$700,000. For the same period in 2005, the revenue was \$429,617, representing a 5% increase in revenues.

General Liability Claims activity includes 69 open claims with reserves of \$1,003,104.00 as of July 31, 2006. There is one (1) claim with over \$300,000 in reserves. Twenty six (26) of these open claims

are being litigated. For comparison, as of February 28, 2006, CFSA had 51 open claims with reserves of \$1,620,642.00. The reduction in reserves is due to the payment of a large settlement. So far in 2006, CFSA received 50 new and/or reopened claims while 31 claims have been closed. Staff is currently tracking 27 claims that have been tendered to other insurance companies. Through the definite of July 2006, CFSA has received 126 new loss reports, 82 of which were information only reports.

Safety — From April through August, 2006 staff provided various services to member fairs including: 1) pre-fair safety consultations; 2) fairtime inspections; 3) provided special training which included boom-lift, forklift, scissor-lift, and CPR training; and, 4) attended fair emergency planning meetings, made presentations and provided special fair consultations.

Tom reported that for many years it was felt that providing inspections and training just prior to fair was a burden to members as they prepared for their annual fair. That assumption came from a time when the CFSA safety programs were new and not readily accepted by all members. Many members now embrace the assistance of the safety staff and specifically ask for help prior to fair.

Tom says that members have found a definite advantage to working on safety planning in areas like livestock layouts, signage, temporary labor training, fire and life safety issues one to two months prior to fair. This additional time allows fairs to modify plans, produce additional signage and address concerns much more effectively than they can three to five days from opening. In the past, these types of recommendations were generally made for the following year in the fairtime report and often forgotten in planning for the upcoming year. Having a safety specialist available during the entire year and through the fair's planning process has been much more effective.

Workers' Compensation — As of July 31, 2006, total open claims reserves were \$5,108,312 (including pre-94 Cal Expo outstanding reserves of \$725,476). There were 199 open claims, of which 122 were indemnity claims and 58 were medical only (includes 1 Information Only claim open for administrative purposes).

Legislation: One of the last major employer-labor disputes is still pending in the California Legislature. Assembly Bill 2068 would repeal a provision of Senate Bill 899 (the "Reform Act") that allows employees to "predesignate" a physician under certain circumstances,

thus escaping cost-saving measures such as Medical Provider Networks (MPN's). This bill would weaken the predesignation provision, so that injured workers could designate a medical group, rather than an individual physician. It will eliminate the predesignation requirement completely if 7% of California workers take advantage of the opportunity to do so, freeing employees to see any physician of their choice.

A Senate panel is beginning hearings to determine whether the recent workers' compensation reforms unfairly slashed benefits to injured workers. Hearings will include discussion on a state advisory report stating that the average award decreased by 54% and is recommending an adjustment to the Permanent Disability Rating Schedule.

5. **Executive Director's Report**

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

- ▶ **Future Vision Discussion** — As reported to all fairs in May, the Future Vision Conference resulted in action plans for each of the JPA's and the Division of Fairs and Expositions. CFSA's Future vision "opportunities" include: 1) expanding contract services such as fair time contracts, accounting services, purchasing and shared employees on a regional basis; 2) hiring (e.g. CEOs and other non union executives), sponsorships, commissions, legal services (e.g. general "in-house" counsel), and fire marshal inspections (this would require delegated authority); 3) moving forward on ADA issues and clearly defining roles and responsibilities.

The Committee met on June 29th and will meet again on August 25th to continue discussion of each agency's action plan, explore new opportunities. With respect to CFSA's opportunities, it was decided that staff should continue with current programs and promote those programs specifically to new fair managers; offer more accounting and investment consulting services and be open to offering new services as the needs become apparent.

- ▶ **Fair Cooling Centers** — In late July, all fairs in the State of California were asked to open and cool down at least one building to receive members of their surrounding community suffering from heat related illnesses or power outages. In the absence of a state of emergency directive from OES, CFSA has some concerns that should be

addressed should the fairs be directed to reopen their facilities as cooling centers in the future. These concerns include the staffing of the cooling centers in regards to safety, security and possible workers' compensation losses, and potential liability claims arising from the operation of these centers. CFSA is recommending that fairs work with local organizations, such as the Red Cross or the local OES in setting up and operating a cooling center. In the event of a liability claim, CFSA would then be able to tender the claim to the operator of the center or the State OES.

- ▶ **New Funding Advisory Committee** — The Division of Fairs and Expositions has invited CFSA to be on the new advisory committee charged with defining the goals, the process, and the criteria for awarding funding from their two new Fair Installment Loan Programs. Donna designated Rick Wood to represent CFSA on this committee. She believes that Rick's financial expertise will benefit the committee and the fairs in the development of these two new loan programs.
- ▶ **Insurance Certificate Review Compliance** — Donna advised the Board that notification has been given to the California Mid-State Fair management expressing CFSA's concern regarding their continued lack of compliance in the collection and submittal of insurance certificates for contracted services and/or events at the fair. A recent second visit by CFSA staff, to the fair revealed no improvement in this area. CFSA will be going back for one more visit to see if there is some way to help the fair staff establish procedures for the collection of insurance information. If CFSA is not successful, staff will be bringing this issue back to the Board as an action item asking for approval to assess an additional liability program fee on any fair that is not in substantial compliance with CFSA insurance requirements after one or more training sessions. Staff is proposing an additional fee of 5% to 25% of the fair's current liability program assessment, depending on the severity and length of the problem.

6. **Next Regular Board Meeting**

The next Board meeting will be scheduled in early November.

VI. EXECUTIVE SESSION

The Board adjourned from regular session at 3:35 p.m. and went into executive session to discuss liability claims involving Alfredo Kuba; Angela Malos; Larry McIver, Hollyn D'Lil, et al.; County of Sacramento; and, Maurice Bedard & Agricola Valdovinos.

VII. REGULAR SESSION

The Board adjourned from executive session at 3:35 p.m. and regular session was reconvened. The Board took no reportable action on the liability claims.

VIII. ADJOURNMENT

Moved by Director Desmond and seconded by Director Pickering to adjourn. The meeting was adjourned at 3:36 p.m.

CHAIR

ATTEST:

SECRETARY