

MINUTES

SPECIAL MEETING OF CALIFORNIA FAIR SERVICES AUTHORITY BOARD OF DIRECTORS

August 24, 2005

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)
Bruce Lim, Board Member
Division of Fairs & Expositions
Emma Suarez, Alternate Board Member
California Farm Bureau
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 Amberson,
California Fair Services Authority
Sue Leavitt,
California Fair Services Authority
Melissa Thurber,
California Fair Services Authority
Christy Layton, Legal Counsel to CFSA
Miller, Owen & Trost

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 2:05 p.m. in the conference room at 1776 Tribute Road, Suite 200, Sacramento, California on Wednesday, August 24, 2005.

II. APPROVAL OF MINUTES

Moved by Director White and seconded by Director Pickering to adopt **Resolution Number 05-13** approving the minutes of the special meeting of April 11, 2005, as presented to the Board of Directors. Motion passed unanimously.

III. APPOINTMENT OF 2006 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 White and seconded by Director Lim to adopt **Resolution Number 05-14** appointing Directors Kelley Ferreira, Rick Pickering, and Lonny Wunder to serve on CFSA's 2006 Budget Committee and Director Suarez to serve as the alternate member of the Budget Committee. Motion passed unanimously.

IV. INFORMATIONAL ITEMS

1. Broker Selection Review Process

CFSA's current agreement for insurance brokerage services with Driver Alliant expires December 31, 2005. Staff recently issued a Request for Qualifications (RFQ) and received written submittals from five brokers with public risk pool experience. Three finalists were selected for panel interviews: 1) Arthur Gallagher & Co.; 2) Marsh & McLennan; and, 3) Driver Alliant.

The Broker RFQ process proved to be very timely and informative as staff approached the marketing of CFSA's excess coverages for the 2006 coverage year. The interview process allowed staff to tap into the knowledge of several experienced brokers to gain a sense of the current commercial excess markets.

After weighing all factors, Driver Alliant was selected for their ability to market CFSA to the excess/reinsurance market both as an individual pool and as part of a larger group of multiple pools. This will give CFSA the full range of options and pricing available in the current excess market. None of the other brokers interviewed had this ability. Staff will work closely with Driver over the next quarter to accomplish the marketing process and will bring back information to the Board as it becomes available. Staff will also bring a new broker agreement with Driver Alliant to the November Board meeting.

2. Review of CFSA's 2004 Accomplishments

Donna Bardaro shared last year's accomplishments with the Board and reported that even though 2004 was the single worst year of adverse loss

development in CFSA's history, staff was hard at work to deliver efficient and cost-effective risk management, insurance and business solutions services through a flexible and responsive partnership with member fairs.

Growth in membership over the last two years reflects staff's performance in delivering valuable fair oriented programs, services and the innovative resources member fairs need. As previously discussed with the Board, the focus for 2005 is: 1) implementing a five-year plan to raise the Workers' Compensation and General Liability Risk Pools' confidence levels; 2) begin rebuilding CFSA's Adverse Development Fund as a reserve against rapidly rising claims costs; 3) researching the possibility of offering joint purchase auto insurance and crime protection programs; 4) researching the development of an individualized facility inspection program; 6) visiting member fairgrounds to explain fee increases, analyze loss histories and develop plans of identifying and resolving potential safety hazards; and 7) assisting member fairs in the restructuring and/or the development of new streamlined programs.

3. Report on Revenue Protection Program Claims Committee

Rick Wood reported that the Revenue Protection Program Claims Committee met on August 11, 2005 to consider five (5) claims, review the fund's balance and consider a request by a fair to use a five year average rather than a three year average to determine a revenue loss. After a lengthy discussion on the merits of changing the formula for determining a revenue loss, there was mutual agreement between the Claims Committee and the requesting fair manager not to go forward with any recommendation to change the existing formula.

The Committee also discussed the need to better define the term "Covered Interim Event" to eliminate any confusion on denying coverage for periodic scheduled seasonal events such as a fair sponsored seasonal car racing program. Staff will prepare and present the appropriate language to revise the Revenue Protection Program's Memorandum of Coverage at the November Board meeting.

4. Preview of CFSA's General Liability Accident Investigation video

Melissa Thurber, CFSA's Communication Officer, provided a sneak preview of CFSA's "General Liability Accident Investigation, Tips and Techniques" video. Accidents happen and when they do, fairs need to know what to do to ensure the well-being of the parties involved as well as how to conduct a thorough accident investigation for CFSA. In the 11-minute video,

information has been provided on why it's important to report fairground accidents, how to determine which incidents should be reported, how to assemble an accident investigation kit, and how to conduct an investigation after an accident has taken place. CFSA will begin distributing copies of the video after the first of the year.

5. Staff Reports

Administrative Services —

Communications The 2004 annual report, "Ready When You Are," is finished and copies have been distributed to the Board Members, and all fair CEOs and directors. Staff also delivered copies to WFA, F&E, CARF and CCA executive and deputy directors.

Internet Survey To ensure CFSA's Web site is accessible to all fairs, a short survey is being developed to query the fairs about the computers, browsers and software they use when accessing the Internet. The results from the survey will help staff gauge if CFSA's Web site is meeting their needs and/or if the fairs are technologically ready for the enhanced functionality and features of CFSA's site.

The survey will be faxed to all fairs and made available on the Web site so fairs can choose to fax, mail or e-mail their responses back to CFSA. The results will be featured in an upcoming issue of the fyi newsletter.

CFSA Brochure To help introduce CFSA to new fair managers, BAs and fair directors as well as other members of the fair industry, an "all about CFSA" brochure is being designed and written in-house. Brochure copy will focus on the different self-insurance pools and services provided by CFSA; graphics will include several colorful icons similar to the one featured on the Home Page of CFSA's Web site.

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. Through this fund, the fairs are reimbursed a percentage of their unemployment insurance costs based on the fair's classification. From January 1, 2005, to June 30, 2005, CFSA reimbursed 63 fairs \$1,272,960.00. Due to higher than usual reimbursement requests, CFSA, at F&E's direction will be reducing fiscal year July 1, 2005, to June 30, 2006 reimbursement rates. Fairs in classes I and II will remain at 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). Through July 31, 2005, the PST Program saved fairs \$286,540.00. Had the PST Program not been in place, the fairs would have paid Social Security taxes of \$322,443.42 compared to the administration fees of \$35,902.60 paid to DPA and CFSA. Of this administration fee, DPA collected \$19,766.60 and CFSA retained \$16,136.00 for administration of the program.

Purchasing Program Reducing CFSA's Purchasing Agent (Karen Gally) to two-thirds time has been beneficial and the Program has realized a profitable year. Fair items purchased include building and parking lot lighting, utility carts, bleachers, air conditioners, refrigerators, a ticketing system for Cal Expo, and a variety of other computer related items. Karen also works closely with the California Construction Authority on the photovoltaic projects as well as the California Authority of Racing Fairs' Satellite Wagering Equipment Replacement Program.

Risk Management — Staff is continuing to work with Driver Alliant, CFSA's broker, on renewal of excess coverage for the General Liability Program. An Insurance Information Alert was sent out in June informing member fairs of the changes in coverages due to the new excess liability coverage. A brief Alert will be sent out shortly informing member fairs that there will be no additional changes made to the terms as outlined in the June Alert. The Workers' Compensation and Pooled Property Protection Programs have been renewed as of July 1, 2005, with both Programs recognizing a reduction in the renewal premiums for excess coverage.

As a result of current ADA litigation involving Cal Expo and other fairs, a series of meetings involving key staff members from the Division of Fairs and Expositions, the California Construction Authority, and CFSA, have been

held on the impact of current and potential ADA litigation for the California fair industry. These meetings covered a variety of issues including ADA awareness, training and funding with further meetings planned to continue to explore these issues. It has been generally recognized that there is a need to provide some training on ADA to the fairs and the other business partners of fairs, such as commercial vendors and concessionaires.

Special Events There are eleven (11) open claims with total reserves of \$217,874.00 as of July 31, 2005, as compared with ten (10) open claims and \$111,239.00 reserved as of February 28, 2005. To date, eight (8) new claims have been received and six (6) claims have been closed, there are three (3) litigated claims.

Revenues for the Special Events Program through the end of June 2005 totaled \$363,976 which is 52% of budgeted 2005 revenue of \$700,000. For the same period in 2004, the revenue was \$358,326, representing a 2% increase in revenues.

General Liability Claims activity includes 598 open claims with reserves of \$1,882,576.00 as of July 31, 2005. There are two (2) claims that total more than \$900,000 in reserves. Twenty one (21) of these open claims are being litigated. For comparison, as of February 28, 2005, CFSA had 58 open claims with reserves of \$1,927,718.00. So far in 2005, CFSA received 38 new and/or reopened claims while 45 claims have been closed. Staff is currently tracking 28 claims that have been tendered to other insurance companies. Through the end of July, CFSA has received 88 new loss reports, 56 of which were information only reports. As compared to all of 2004, there were a total of 480 loss reports of which 375 were information only reports.

Safety— The Safety Department conducted fifteen (15) facility inspections, nineteen (19) fair time inspections, and ten (10) safety training sessions at various member fairs between April and August, 2005.

Loss Control Memo There have been 26 confirmed cases of e-coli related illnesses reported at two Florida fairs earlier this year. Twenty three of those cases were children and all twenty six cases were traced back to petting zoos. While reviewing fair contracts for adequate insurance coverage for petting zoo operators here in California, CFSA was made aware of substantial changes to many of the commercial coverages which effectively excluded losses from e-coli exposure or illness. CFSA took a number of proactive steps including a Loss Control Memo released by the safety department. The memo included a summary of a "Compendium to Prevent

Disease Transmission from Animals in Public Settings” release by the US Center for Disease Control. The intent of the memo was to outline practical procedures for members to use in livestock and petting zoo operations that would educate fair patrons and reduce potential exposure to e-coli or similar illnesses. This will be a priority focus for the department during fair time inspections.

Safety Program and Services Over the past nine years, the safety department has been modifying its programs and services to be more responsive to the needs of the member fairs. The time has now come to improve the Facility Inspection Program by assigning a specific safety specialist to each member fair. That specialist is responsible for creating a positive working relationship with the manager and staff at each of his assigned fairs, working closely with those fairs having the highest losses. This will also allow the safety specialist more time with fairs needing additional attention and training thereby providing greater assistance to the member fairs.

Member Visits Tom Allen and Rick Wood visited with 31 member fairs during April and May. While the visits primarily focused on those members who were going to see increased fees in 2005, it also provided an opportunity for fairs to have access to management level staff for questions, concerns and even compliments. The success of these visits over the past few years has confirmed to CFSA the importance of one on one contact with members and staff looks forward to the 2006 visits.

Workers’ Compensation — As of July 30, 2005, total open claims reserves were \$6,031,124 (including pre-94 Cal Expo outstanding reserves of \$767,903.) There were 221 open claims, of which 171 were indemnity claims and 50 were medical only (includes 1 Information Only claim open for administrative purposes).

Currently, CFSA is investigating the use of MPN’s (Medical Provider Networks) for our members. MPN’s are another strategy allowed by the recent California Workers’ Compensation reform legislation. They are part of a three-pronged approach to medical cost savings. The first is Utilization Review (UR). Anytime there is a question regarding the appropriateness of a procedure (either under legal guidelines or from a medical standpoint) the request is referred to appropriate experts for comment. The second prong is the MPN. These are networks of physicians who agree to treat injured workers in accordance with accepted guidelines. If an employer provides an MPN to employees, they must treat with in the network, going outside only in exceptional circumstances. The third area of savings is bill review,

something CFSA has done for many years. Bills are paid in accordance with a fee schedule authored by the State. This program provides small, incremental and consistent savings.

6. Executive Director's Report

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

- ▶ Fair Restructuring — Donna assured the Board that staff is committed to working with the Division of Fairs and Expositions and the fairs to assist with the restructure and/or development of new programs or services to help members operate as Local District agencies should such a transition occur. Staff is working with F&E to identify and develop solutions and programs to replace some existing State functions as well as exploring CFSA's existing structure to see if changes might be needed to expand services during and after such a transition.
- ▶ California Common Carrier Case Update — In June, the California Supreme Court issued its decision in Gomez v. Superior Court. The issue in this case was whether an amusement ride operator is subject to the higher standard of care ("utmost diligence") owed by a common carrier to a passenger or is subject to the rules of ordinary negligence law. Unfortunately, the Supreme Court – on a 4 to 3 vote – affirmed the Appellate Court's determination that the California legislature intended to treat amusement ride operators as "carriers of persons for hire" under the pertinent statutes. The case will now go back to the trial court on allegations of Disneyland's liability for fatal brain injuries to a young woman rider on the Indiana Jones Attraction. Justice Chinn wrote a vigorous dissent, pointing out that since the relevant common carrier statutes were adopted by the legislature in 1872, the legislature could not have intended that they apply to modern amusement rides. Staff expects to see proposed legislation to correct and clarify carriers of persons for hire.
- ▶ CFSA Membership — The National Orange Show has expressed their intent to seek proposals for insurance coverage for 2006. Staff has received and will respond to their request for proposal for Workers' Compensation coverage. Cal Expo has also indicated that they are going out to bid for insurance services. They have invited interested firms to visit the fair, listen to a brief overview of the fair's operations and tour the fair grounds on August 24, 2005 (the same day and time as CFSA's Board meeting).

- ▶ **CAJPA Fall Conference** Donna reported that CFSA staff was scheduled to attend the California Association of Joint Powers Authorities 2005 Fall Conference and Training Seminar, September 21– 23, 2005, to be held at South Lake Tahoe. There are over 150 risk management joint powers authorities in the State of California of which over 100 are members of CAJPA. CAJPA's members represent 58 counties, 471 cities, over 1,000 school districts and well over 3,500 special districts in California. CFSA hopes to glean information on topics covering up-to-date case law information that can impact our agency, the effect of legislative changes enacted last year including retroactivity, apportionment, the Utilization Review process and penalties, understanding how the new Medical Provider Network (MPN) program (SB 899) can reduce workers' compensation costs, an employment liability update on what the Courts and the Legislature did this year, and insights into top legislative issues addressed by the Legislature in 2005. Donna stated that this conference meets one of our CAJPA accreditation requirements for management training.
- ▶ **F&E Newsletter** Donna reported that the Division of Fairs and Expositions is going to be publishing their own newsletter with a first edition coming out in the Fall. We don't anticipate that their publication will disrupt our fyi as it's purpose will mainly focus on fair industry operation and success stories.
- ▶ **JPA Formation Assistance** We were contacted by CDFA's Inspection Services Division in a quest for information on our JPA formation and operating procedures. They may be interested in forming a JPA to provide employment services for seasonal inspection programs. They were also interested in our ability to provide insurance and accounting services for this type of JPA. Our agreement is clear in that we are limited to providing services to fair related entities only. Donna will keep the Board informed of any further discussions.
- ▶ **Risk Alerts** — CFSA has sent out three Risk Alerts: 1) Pari-Mutual Operations informing member fairs the MOC for the General Liability Program included a limitation excluding protection for any claim or loss arising out of the handling or processing of pari-mutual wagers; 2) Petting Zoos without CFSA Approved Liability Coverage advising members that any claim or loss related to a petting zoo would be conditioned upon advance approval of the petting zoo's general liability insurance coverage. Otherwise, such protection and defense would not be provided by CFSA; and, 3) CFSA General Liability

Program for 2005 notifying member fairs of changes in the program for 2005 and describing the new excess policies and outlining the differences in coverage.

7. Next Regular Board Meeting

The next regular Board meeting is Monday, November 14, 2005, at 10 a.m.

V. EXECUTIVE SESSION

The Board adjourned from regular session at 3:42 p.m. and went into executive session to discuss liability claims involving Salvador Hernandez; David Schneider; Sheila Mangini; Julia Bartha; Larry McIver, Hollyn D'Lil & Michael Dunne; ISC, Inc, Larry McIver, Hollyn D'Lil, et at.; County of Sacramento, William Harrington; Dana Clunk; and workers' compensation claim involving Robert Putney.

VI. REGULAR SESSION

The Board adjourned from executive session at 3:57 p.m. and regular session was reconvened. The Board took no reportable action on the liability claims or the workers' compensation claim.

VII. ADJOURNMENT

Moved by Director Pickering and seconded by Director Wunder to adjourn. The meeting was adjourned at 3:58 p.m.

CHAIR

ATTEST:

SECRETARY