

# MINUTES

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

December 11, 2006

1776 Tribute Road, Suite 200, Sacramento, CA 95815

Kelley Ferreira, Board Member  
San Benito County Fair (33<sup>rd</sup> DAA)  
Forrest White, Board Member  
San Joaquin County Fair (2<sup>nd</sup> DAA)  
Rebecca Desmond, Board Member  
Siskiyou Golden Fair (10<sup>th</sup> DAA)  
Rick Pickering, Board Member  
Alameda County Agricultural Fair  
Lonny Wunder, Board Member  
Yolo County Fair (40<sup>th</sup> 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  
Kirk Trost, Legal Counsel to CFSA  
Miller, Owen & Trost  
Christy Layton, Legal Counsel to CFSA  
Miller, Owen & Trost  
John Root, Alternate  
Public Member  
Carrie Shasky, EDP  
Western Fairs Association

### 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 10:07 a.m. in the conference room at 1776 Tribute Road, Suite 200, Sacramento, California on Monday, December 11, 2006.

### II. APPROVAL OF MINUTES

Moved by Director Desmond and seconded by Director Wunder to adopt **Resolution Number 06-18** approving the minutes of the special meeting of August 23, 2006, as presented to the Board of Directors. Motion passed unanimously.

### III. AMENDMENT TO REVENUE PROTECTION PROGRAM MOC AND 2007 FEE STRUCTURE

Rick Wood, Assistant Director Finance, reported that the Revenue Protection Program Claims Committee has identified the need to further expand and define the Memorandum of Coverage's definition of an "Occurrence" based on a claim received by the Committee in 2005. The loss occurred as a consequence of the closure of two major roads leading to the fair grounds which severely restricted accessibility to the fair resulting in significantly lower revenues and attendance than the previous three year average.

The Committee is recommending that the definition of an "Occurrence" be modified to add two new definitions: 1) An act of government resulting in controls or restrictions upon transportation or an act of government by reason of war, national defense, terrorism, or other declared emergency or disaster; and 2) Fire, flood, epidemic or other act of God or of the public enemy.

CFSA staff recommends that the current fee structure for the Revenue Protection Program remain the same as in 2006, and that staff make every attempt possible to renew excess coverage with a limit of \$1,000,000 annual aggregate over the Revenue Protection Program's self-insured retention limit of \$600,000 on total paid claims.

Moved by Director White and seconded by Director Desmond to adopt **Resolution Number 06-19** approving Amendment to Memorandum Describing the Revenue Protection Program Administered by CFSA and the Program's 2007 Fee Structure.

WHEREAS, the Revenue Protection Program administered by the California Fair Services Authority ("CFSA") was implemented in 1994 to reimburse fairs for revenue losses due to weather or other unpredictable disruptions; and

WHEREAS, the Program continues to be an asset to those fairs who participate in the program; and

WHEREAS, the Revenue Protection Program Claims Committee and CFSA staff recommend that the Memorandum Describing the Revenue Protection Program Administered by the California Fair Services Authority ("MOC") be amended to expand the definition of an "Occurrence" as now defined in the MOC;

BE IT RESOLVED BY THE CALIFORNIA FAIR SERVICES AUTHORITY:

1. That the 2007 Proposed Revenue Protection Fee Schedule is approved effective January 1, 2007.

2. That the Memorandum Describing the Revenue Protection Program Administered by California Fair Services Authority, Amended and Restated effective January 1, 2007, is hereby approved. Motion passed unanimously.

#### **IV. CFSA'S 2007 OPERATING BUDGET**

Rick Wood, presented CFSA's 2007 proposed operating budget to the Board. He began with an overview of the current year's expected financials. He expects the 2006 revenues will likely exceed the budgeted revenues due mainly to higher than expected investment income, purchasing fees, and special events fees. Rick is anticipating losses lower than the original projection by the actuaries and the excess insurance costs and other operating expenses appear to be on target with the 2006 budget. CFSA's 2006 salaries, taxes, and benefits are projected to come in just below the budgeted amount due to two positions that will remain vacant through year end.

After three years of heavy losses and pool fee increases, 2005 brought a better than average claims year for both the Workers' Compensation and General Liability and 2006 appears to be a better than average claims year for the Workers' Compensation Pool with only a slightly higher than expected claims year for the General Liability Pool.

Staff is not recommending an increase or reduction in the 2007 Workers' Compensation fee structure, but there will be a slight increase in the General Liability fees for the fairs in Classes I through III. Rick believes that continuing to fund the pools at the recommended rates will put the Agency on target to meet the five year rebuilding plan to replenish the Adverse Development Fund which was nearly depleted in 2004 by unprecedented claims costs.

The Budget Committee supports the 2007 operating budget and recommends approval as presented to the Board.

Moved by Director Pickering and seconded by Director Desmond to adopt **Resolution Number 06-20** approving the 2007 operating budget for California Fair Services Authority as submitted and reviewed by the Board of Directors. Motion passed unanimously.

#### **V. REVIEW OF EXECUTIVE DIRECTOR'S SALARY**

The Board tabled this item until the conclusion of executive session.

## **VI. INFORMATIONAL ITEMS**

### **1. CFSA Board Election Results**

The Nominating Committee, comprised of Kelley Ferreira (Chairman), Rebecca Desmond (Class 1–2) and Rick Pickering (Class 3–7) met on Sunday, November 5, 2006, at the Crowne Plaza Hotel in Ventura, to select individuals to be placed on the ballot for the CFSA Board of Directors and the Revenue Protection Program Claims Committee. The Committee selected Kelley Ferreira, Kenny Kalian and Jim Shasky to represent Class 1 and 2 Fairs; Dan Jacobs, Ed Scofield, and Forrest White to represent Class 3 through 7 Fairs. The Revenue Protection Program Claims Committee candidates included Regina Goody, Lori Marshall, Rich Persons, and Jim Wolcott. Successful candidates for the Board of Directors will each serve a four (4) year term and those candidates elected for the Revenue Protection Program Claims Committee will serve a two (2) year term.

Ballots were mailed out to all electors, named by resolution, and all participating Revenue Protection Program managers on November 17, 2006. The electors and managers had 14 days to vote. Ballots were tallied on December 4, 2006, and election results have been communicated to the Nominating Committee and successful candidates, and will be announced in fyi in mid–December.

Successful candidates included Kelley Ferreira Class 1 and 2 Fairs and Ed Scofield Class 3 through 7 Fairs. Their term will be January 1, 2007, through December 31, 2010. Fair Representatives for the Revenue Protection Claims Committee included Lori Marshall as Fair Representative; Rich Persons as First Alternate; and, Regina Goody as Second Alternate. Their term will be January 1, 2007 through December 31, 2008.

### **2. Report on Special Risk Advisory Committee Meeting on Proposed Changes to the Carnival Inspection Program**

Tom Allen, CFSA's Safety Manager, reported that CFSA held a Special Risk Advisory group meeting, hosted by the Safety Department in Ventura during the CFA Conference. CFSA senior staff, along with board members Kelly Ferreira, Rick Pickering, Rebecca Desmond and Lonny Wunder were also in attendance.

Unfortunately, there weren't many fairs represented, making it harder to measure the general feelings of the membership on the recommendations to eliminate the mechanical ride inspection portion of the Fairtime Carnival Inspection Program. Tom indicated there was vocal opposition toward the proposal by Mark Armstrong from Lodi Grape Festival as well as Jennifer Seward of Redwood Empire Fair. However, there was also support from both Kelly Baldwin, Monterey County Fair and Robin Hauk, Merced County Fair, for the ability of CFSA staff to devote a greater amount of time to fair liability issues than in the past.

The meeting was also attended by five of the carnival companies serving our member fairs including Davis Enterprises, Butler Amusements, Helm & Sons, Midway of Fun and Shamrock Shows. Tom Allen told the Board that they are still in the discussion phase on this issue and staff will be meeting with the Risk Advisory Group again at Convention in Reno.

### 3. **Staff Reports**

**Administrative Services** —Work has begun on CFSA's 2007 trade show booth, including signage and display materials. The Trade Show booth information materials will include an updated FlexNet brochure, now in production.

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**Workers' Compensation & Safety Video** The first draft of the script for the third in our series of claims/safety-related videos is written and under review by the Safety and Risk Management departments. This video includes an overview of the information Cal/OSHA recommends for the fairs' Injury and Illness Prevention Programs, a review of workers' compensation-related forms, and tips on accident scene investigation.

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**Annual Report** Although work on the '06 annual report won't officially begin until early 2007, a preliminary timeline has been researched and written and is currently under review by all of CFSA's department managers and supervisors.

**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. 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, 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. It is anticipated that for the fiscal year July 1, 2006 to June 30, 2007, fairs in classes I and II will receive 100% reimbursement, classes III and IV will receive a 70% reimbursement, and classes V through VII will receive a 40% 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 \$899,105.00. Had the PST Program not been in place, the fairs would have paid Social Security taxes of \$997,801 compared to the administration fees of \$98,696 paid to DPA and CFSA. Of this administration fee, DPA collected \$54,338 and CFSA retained \$44,358 for administration of the program.

**Risk Management** — Staff is currently working with the Broker on renewal of coverages that expire on or about January 1, 2007. These coverages include excess/reinsurance coverages for General Liability, Special Events, and Revenue Protection. Staff continually works with the Broker to renew coverages at the best price and the most favorable terms to the Agency's Pools.

The Pooled Property Protection Program has had a total of thirty six (36) reported claims, six (6) of which remain open. Two (2) of the open claims are flood claims occurring in 2005 and 2006. It's estimated that the Pool could incur up to \$600,000 on these open claims and staff is continuing to work with individual fairs and the California Construction Authority to resolve open claims.

**Contract Review** CFSA reviews all contracts for DAAs, as well as from other CFSA member fairs. For DAAs, all non-hazardous

contracts over \$15,000 and up to \$75,000 for wach 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 to be submitted to CFSA for an insurance certificate review.

As of November 30, 2006, staff had reviewed 1,963 contracts as compared with 1,635 contracts in 2005 representing an increase of 328 contracts. CFSA continues to focus its efforts on getting all member fairs in the Liability Program to submit their contracts for insurance certificate review and approval. As part of the ongoing effort, staff will be making fair visits to train personnel and perform certificate compliance audits.

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***CFSA's "Red Book"*** The 4<sup>th</sup> Edition of CFSA Claims & Loss Reporting Guide and Insurance Programs/Coverage — "Red Book" was distributed to all member fairs in November. This new edition includes a complete revision to the Workers' Compensation Section as well as other important changes and additions to CFSA coverages.

***Special Events*** Revenues for the Special Events Program through the end of October 2006 totaled \$672,643 which is 96% of budgeted 2006 revenue of \$700,000. For the same period in 2005, the revenue was \$644,617, representing a 4% increase in revenues.

***General Liability*** Claims activity includes 68 open claims with reserves of \$1,143,294.00 as of November 30, 2006. There is one (1) claim with over \$300,000 in reserves. Twenty one (21) of these open claims are being litigated. For comparison, as of July 31, 2006, CFSA had 69 open claims with reserves of \$1,003,104.00. So far in 2006, CFSA received 86 new and/or reopened claims while 68 claims have been closed. Staff is currently tracking 6 claims that have been tendered to other insurance companies.

***Safety*** — From September through December, 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, IIPP development and staff training, HAZCOM development and staff training; 4) attended fair emergency planning meetings, fair safety committee meetings, made presentations and provided special fair consultations; and 5) provided CPR/First Aid training

and certification for the Division of Fairs and Expositions staff.

**Ventura CFA Conference** Tom Allen and Tom Amberson attended the conference and hosted a “Special Risk Advisory Meeting” regarding CFSA’s Carnival Ride Inspection Program and participated in the “Meet the JPAs” breakfast roundtables, each hosting a separate table. The major topic for discussion at both tables was the Carnival Inspection Program allowing for more in–depth discussion with members on the issues with the Carnival Program and the actual changes being recommended by staff.

**Workers’ Compensation** — As of November 30, 2006, total open claims reserves were \$5,274,844 (including pre–94 Cal Expo outstanding reserves of \$717,570). There were 225 open claims, of which 161 were indemnity claims and 64 were medical only (includes 1 Information Only claim open for administrative purposes).

**Legislation:** Federal Employment and Housing Act (“FEHA”) discrimination claims continue to be a very costly exposure to fairs. In an effort to educate member fairs, an article recently appeared in CFSA’s FYI newsletter clarifying “reasonable accommodations” and what member fairs should be doing to accommodate their employees. It is the fair’s responsibility to have a “reasonable accommodation” procedure in place. The FYI article also gives members tips to avoid these costly claims and deal with the new regulations.

#### **4. Next Regular Board Meeting**

The next Board meeting is scheduled for February 5, 2007.

### **VII. EXECUTIVE SESSION**

The Board adjourned from regular session at 11:25 p.m. and went into executive session to discuss the performance of the Executive Director; liability claims involving Alfredo Kuba; Angela Malos; Evelyn Osterhuber; Georgia Crouse; Larry Mclver, Hollyn D’Lil, et al.; County of Sacramento; and, Maurice Bedard & Agricola Valdovinos; and, the workers’ compensation claims involving Erlene Tindell; and, Rudy Maldonado.

### **VIII. REGULAR SESSION**

The Board adjourned from executive session at 12:10 p.m. and regular session was reconvened. The Board took no reportable action on the liability or workers’ compensation

claims.

**IX. REVIEW OF THE EXECUTIVE DIRECTOR'S SALARY**

Moved by Director Gomes and seconded by Director Wunder to adopt **Resolution No. 06-21** awarding the Executive Director a one time bonus of Two Thousand Five Hundred Dollars (\$2,500.00) for her exceptional performance in 2006 and a five percent (5%) salary increase, resulting in an annual salary of One Hundred Thirty Five Thousand Nine Hundred Forty Nine Dollars (\$135,949.00) effective January 1, 2007, based on her performance in 2006. Motion passed unanimously.

**X. ADJOURNMENT**

Moved by Director Desmond and seconded by Director Wunder to adjourn. The meeting was adjourned at 12:15 p.m.

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**CHAIR**

**ATTEST:**

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**SECRETARY**