

# MINUTES

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

August 21, 2008

1776 Tribute Road, Suite 200, Sacramento, CA 95815

Rick Pickering, Board Member  
Alameda County Fair

Rebecca Desmond, Board Member  
Siskiyou Golden Fair (10<sup>th</sup> DAA)

Kelley Ferreira, Board Member  
San Benito County Fair (33<sup>rd</sup> DAA)

Ed Scofield, Board Member  
Nevada County Fair (17<sup>th</sup> 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

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

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 10:02 a.m. in the conference room at 1776 Tribute Road, Suite 200, Sacramento, California on Thursday, August 21, 2008.

### II. APPROVAL OF MINUTES

Moved by Director Root and seconded by Director Desmond to adopt **Resolution Number 08-12** approving the minutes of the regular meeting of April 7, 2008, as presented to the Board of Directors. Director Scofield abstained since he was not in attendance at the April 7, 2008, meeting. Motion passed unanimously.

### III. JOINT EXERCISE OF POWERS AGREEMENT FOR CALIFORNIA FAIR SERVICES AUTHORITY DATED OCTOBER 20, 2008

Christy Layton, CFSA's legal counsel, reviewed the proposed changes to CFSA's Joint Exercise of Powers Agreement which has not been amended since 1994. Over the years, the risk sharing and services programs have matured, resulting in the need for updating the Agreement to better reflect the current operation of CFSA programs and to make the administration of the Agency more efficient. In addition, the risk consulting firm ARMTECH, which made a comprehensive review of CFSA's risk sharing programs several years ago, and the California Association of Joint Powers Authorities have made recommendations to staff to modify the Agreement.

Proposed key modifications to the Agreement include: 1) updated definitions of "Loss" and "CDFA Secretary;" 2) further detail to better describe the powers granted to CFSA as a joint powers authority; 3) CFSA's operating limitations be based upon member entity San Mateo County rather than Santa Clara County; 4) specific dates and other language from the initial CFSA Board elections in the 1990's deleted and replaced with generic time frames and language where necessary; 5) Composition of the Board language modified to allow the elected CFSA Board to appoint a short term replacement Elector to a vacated elected Board position; 6) Terms modified to clarify CDFAs pleasure appointment; 7) Powers of the Board section expanded to provide more detail on the duties of member and participating entities that participate in CFSA Joint Protection and Service Programs; 8) additional language giving further detail to the CFSA Board's ability to assess fees and penalties against member and participating entities based upon their participation in Joint Protection or Service Programs; 9) Withdrawal language modified to change the timing of the advance notice that a participating entity must give CFSA to withdraw from a Joint Protection Program; and, 10) Termination language modified to make it clear that the definition of termination for "good cause" includes a failure to make timely payments of fees or other financial obligations to CFSA.

Staff recommends Board approval of the Joint Exercise of Powers Agreement for CFSA Dated October 20, 2008.

Moved by Director Desmond and seconded by Director Root to adopt **Resolution Number 08-13** approving the Joint Exercise of Powers Agreement for the California Fair Services Authority Dated October 20, 2008.

WHEREAS, CFSA's joint exercise of powers agreement was last amended in 1994;  
and

WHEREAS, CFSA's risk sharing and services programs have matured and there are various areas where modification of the agreement would make the administration of the agency more efficient; and

WHEREAS, modifications to the agreement have been recommended by both the risk consulting firm ARMTECH and the California Association of Joint Powers Authorities,

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

That the Joint Exercise of Powers Agreement for the California Fair Services Authority dated October 20, 2008, is hereby approved. Motion passed unanimously.

#### **IV. APPOINTMENT OF CFSA'S 2009 BUDGET COMMITTEE**

Donna Bardaro, CFSA's Executive Director, reviewed with the Board past practices in the selection and appointment of the Budget Committee consisting of three (3) members and one alternate member. She explained that the role of the Budget Committee 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 Ferreira and seconded by Director Scofield to adopt **Resolution Number 08-14** appointing Directors Rick Pickering, Kelley Ferreira, and Ed Scofield, to serve on CFSA's 2009 Budget Committee and Director Bruce Lim to serve as the alternate member of the Budget Committee. Motion passed unanimously.

#### **V. INFORMATIONAL ITEMS**

##### **1. Report on Revenue Protection Program Claims Committee**

The Revenue Protection Program Claims Committee will meet on August 21, 2008 to discuss claims submitted by the Calaveras County Fair, Placer County Fair, Chowchilla Fair, Glenn County Fair, San Joaquin County Fair, and the National Orange Show.

##### **2. Report on Property Program**

The Division of Fairs and Expositions allocates funds to subsidize the

purchase of a commercial property insurance policy for participating fairs and has authorized CFSA to go forward with a revised Property Protection Program for 2008/2009. The fairs will pay fees based on individual fair property values. Participation will be voluntary, but if a DAA chooses not to participate, it must purchase property insurance with equal or greater coverage than that provided by the Property Protection Program's policy. The changes to this Program are a result of F&E no longer having the resources available to fully fund the Program. Beginning in January, 2009, fairs will need to budget for the cost of property insurance on an annual basis. The Division's annual contribution of \$450,000 will go towards the purchase of a commercial property insurance coverage each year with the fees paid by participating fairs making up the difference of the total cost of the coverage. In addition, loss modification factors will be developed in future policy periods to reward fairs with good loss histories and assess more to fairs with higher loss histories, while assessing more for frequency rather than severity of losses.

### **3. Review of CFSA's Election Process**

The terms of three (3) elected CFSA directors will expire at the end of 2008: Lonny Wunder, representing Fair Classes 1–2; Rick Pickering, representing Fair Classes 3–7; Rebecca Desmond, representing the At–Large position which rotates to the Fair Classes 3–7; and the mid–term vacancy created by Ed Scofield, representing Fair Classes 3–7 (Ed's term goes through December 31, 2010).

In addition, the terms of the fair manager representative and alternates serving on the Revenue Protection Program Claims Committee will also expire December 31, 2008. Currently, Lori Marshall is the fair representative; Rich Persons is the first alternate; and, Regina Goody is the second alternate.

As chair of CFSA, Rick Pickering will need to form a Nominating Committee for the purpose of this election. Interested electors will need to contact Rick Pickering no later than October 1, 2008. Nominations will be forwarded to CFSA and ballots will be mailed to all Fair Electors by October 14, 2008, and election results will be communicated to the Nominating Committee and successful candidates, and announced to all participating members in November.

#### 4. Staff Reports

**Administrative Services**—CFSA’s 2007 annual report was mailed to all fairs, board directors and sister–agency management in mid–July. The annual report will also be used as a marketing tool throughout the year providing information about CFSA, our programs and services.

**Video Production** Preliminary work has begun on the next CFSA Safety video/DVD. Staff’s working title – “*How to Conduct a Fair Safety Inspection*” will give fair management the information they need to conduct fairground safety investigations on their own.

**Maintenance Mania** The newly designed Maintenance Mania Web site is up and running ([www.maintenancemania.com](http://www.maintenancemania.com)). A bookmark page has been added on the Web site recapping the 2008 event. As details for the 2009 event are finalized they will be posted onto the 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 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 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). So far in the calendar year 2008 the PST Program has saved the fairs \$512,628. Had the PST Program not been in place, the fairs would have paid Social Security taxes of \$567,335 compared to the administration fees

of \$54,708 paid to DPA and CFSA. Of this fee, DPA collected \$30,120 and CFSA retained \$24,588 for administration of the program.

**Accounting Services** Beginning January 1, 2008, staff began providing full accounting services for the Mariposa County Fair and the Sacramento County Fair and payroll services for the Salinas Valley Fair and the Eastern Sierra Tri-County Fair. There are now forty (40) fairs and three (3) JPAs using at least one of CFSA's accounting services through the FlexNet Program.

**Risk Management** — Staff has completed the renewal of excess coverages that expired on July 1, 2008, including Workers' Compensation, and Pooled Property Protection Programs. Renewals have also been completed for the Hazardous Special Events Program for rodeos/horse shows and motorized racing events in 2008. Seventeen member fairs have chosen to cover a total of 35 rodeo/horse show events and 29 motorized racing events.

**Pooled Property Protection** Since 2002, the Pooled Property Protection Program has had a total of fifty four (54) reported claims of which seven (7) are open. The open claims consist of one (1) loss from 2006, one (1) loss from 2007 and five (5) losses from 2008. The total number of twelve (12) 2008 losses (open and closed) include eight (8) from windstorm, two (2) from fires, one (1) from flooding and one (1) from damage to fair property. It is currently estimated that the Pool could pay another \$40,000 or more on the open claims as advanced payments have been made in two of the losses. Staff continues to work with the individual fairs and CCA to resolve these open claims. The Division of Fairs and Expositions has committed funding for this program through the 2008-2009 fiscal year.

**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. As of July 31, 2008, staff had reviewed 1,562 contracts in 2008 as compared with 1,419 contracts in 2007. This is an increase of 143 contracts.

Staff continues to focus on getting all member fairs in the Liability Program to submit their contacts for insurance certificate review and approval. As part of this ongoing effort, staff will continue to make fair visits to train personnel as well as to perform certificate compliance audits. Staff continues to be concerned the lack of compliance with the insurance certificate review requirements by a small number of member fairs and may recommend revision to the current General Liability Program Operating Memorandum #03-01 pertaining to the policy for non-compliance.

***Special Events*** Revenues for the Special Events Program through the end of June 2008 totaled \$355,181 which is 45% of the budgeted 2008 revenue of \$795,000. For the first six (6) months in 2007, the revenue was \$357,227 representing less than a one percent (1%) decrease in revenues.

Claims activity in the Special Events Program included seven (7) open claims with total reserves of \$360,879 as of July 31, 2008, as compared with seven (7) open claims and \$506,570 in reserves as of February 29, 2008. There are no claims with reserves in excess of \$250,000. So far in 2008, eight (8) new/reopened claims were received, and nine (9) claims were closed. There are currently three (3) litigated claims. For comparison, in 2007 there were seven (7) new claims received, and five (5) claims were closed.

***General Liability*** Claims activity includes 35 open claims with reserves of \$1,024,192 as of July 31, 2008. There is one (1) claim with over \$500,000 in reserves. Thirteen of these open claims are being litigated. For comparison, as of February 29, 200, CFSA had open claims with reserves of \$1,205,945. So far in 2008, CFSA received 27 new/reopened claims while 40 have been closed. Through the end of July 2008, CFSA received 82 new loss reports, of which 57 were information only reports and three claims have been tendered to other insurance companies.

There are two settlements to report. The first settlement for \$65,000 was reached with the claimant, Sandra Robinson, where CFSA staff received emergency settlement authority on March 13, 2008 from the Executive Director and a Board member under established CFSA procedures. The second settlement for \$45,000 was reached with the claimant, Joseph Marques, where CFSA staff received emergency settlement authority of \$75,000 on May 7, 2008 from the Executive

Director and a Board member.

**Safety** — From May 2008 through August 2008, staff has been involved in various projects, staff training programs, and inspections provided by CFSA to member fairs. The majority of services provided at 52 of the member fairs over the past four month period have been pre-fair and fair time inspections. The expanded scope of the pre-fair program has included training, as well as the bulk of the Fire & Life Safety inspections being conducted in tandem with the State Fair Marshall.

**Calaveras County Fair Ride Incident** CFSA safety staff arrived at the fair on Friday evening following the carnival ride incident and provided assistance to the fairs' management and staff, as well as serving as liaison between the carnival and DOSH. CFSA staff remained at the fair through closing day.

**State Fire Marshal** Tom Allen and Tom Amberson met with chiefs and supervisors at the State Fire Marshal's ("SFM") office on the first of May. Tom reports that the meeting was very productive and both agencies agreed to work on a cooperative program. CFSA has been working with fairs, concessionaires and exhibitors to ensure that life safety and fire protection issues are resolved and the required inspection and postings are completed. There has been a substantial decrease in the number of visits and hours the SFM deputies are working at the DAA member fairs. Tom noted that staff would not have been able to provide the commitment or level of service to the SFM Program had CFSA program changes not been made last year. Staff believes this is a valuable service to members and CFSA's risk sharing pools as a whole.

**New Safety Specialist** With the departure of John Kelly and Al Payne this past year, two new safety specialists have been hired. Daniel Perez comes to CFSA with a safety background in the drilling and retail gasoline industry. He speaks Spanish and will be providing bilingual training for member fairs. Romel Sanchez was a flight deck safety officer on the USS Abraham Lincoln and he served in the Persian Gulf during the beginning of the Iraqi war in 2003. He left the Navy after eight years and brings an impressive firefighting and safety background to CFSA.

**Workers' Compensation** — As of July 31, 2008, total open claims reserves were \$5,665,993 (including pre-94 Cal Expo outstanding reserves of \$602,931.) There were 219 open claims, of which 152 were indemnity claims and 67 medical only (this includes one Information Only claim open for administrative purposes).

## 5. Executive Director's Report

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

**CalPERS Audit** — As reported at the April Board meeting, CalPERS had requested the Office of Audit Services to review the member earnings and Health Benefits and Retirement enrollment reporting procedures of CFSA. Our review began on Tuesday, April 8 and concluded on Thursday, April 10, 2008.

The objective of the review was to ensure that CFSA was in compliance with applicable sections of the California Government Code and Title 2 of the California Code of Regulations and that prescribed reporting and enrollment procedures for Retirement and Health benefits are being followed. The review period covered January 1, 2005, through December 31, 2008.

Donna reported that attempts to obtain audit results have been made on several occasions to no avail. The last inquiry was on August 11, 2008, and she will keep the Board apprised.

**Member Withdrawal Notification** — Staff has been officially notified that the Los Angeles County Fair Association would like to terminate and withdraw their participation from CFSA's Workers' Compensation Program effective January 1, 2009. Their five year participation obligation will be satisfied on August 31, 2008. In accordance with CFSA's withdrawal policy, staff will contact the fair to confirm the withdrawal by October 31, 2008.

## 6. Next Board Meeting

The next Board meeting is scheduled for November 9, 2008.

## VI. EXECUTIVE SESSION

The Board adjourned from regular session at 11:35 p.m. and went into executive session to discuss liability claims involving Sandra Robinson; Maurice Bedard, Agricola

Valdovinos, Paul Zwierski; Angela Malos, Maliyah Martin and Cody Robinson and workers' compensation claims involving Rudy Maldonado and Danny Anderson.

## **VII. REGULAR SESSION**

The Board adjourned from executive session at 11:55 p.m. and regular session was reconvened. The Board took no reportable action on the liability or workers' compensation claims.

## **VIII. ADJOURNMENT**

Director Pickering asked the Board to observe a moment of silence for the recent passing of both his father and Donna Bardaro's father. Moved by Director Desmond and seconded by Director Lim to adjourn. The meeting was adjourned at 11:58 p.m.

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**CHAIR**

**ATTEST:**

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**SECRETARY**