

LITTLE HOOVER COMMISSION WRITTEN TESTIMONY

12-19-2011

SUBMITTED BY

REBECCA DESMOND, DIRECTOR

CALIFORNIA DEPARTMENT OF FOOD & AGRICULTURE DIVISION OF FAIRS &
EXPOSITIONS

Introduction

The question surrounding state ownership of fairgrounds is not a simple one. It is a complex issue that takes many factors into consideration including public benefit, benefit to the state, liability to the state, economic impact on the state, and relevance in the local community.

Summary of the Division of Fairs & Expositions

The Division of Fairs & Expositions (F&E) is a division of the California Department of Food & Agriculture. The division has been in existence for more than 30 years and its primary purpose in the past was to distribute state support of the 78 fairs in California and provide fiscal and policy oversight of the fairs, particularly the 54 district agricultural association (state institution) fairs.

CDFA's authority and oversight can be found in the California Food & Agriculture Code (Sections 3951-4060) and the California Business & Professions Code (Sections 19620-19642.1). In these codes, district agricultural associations have the authority to raise revenues and retain all of those revenues.

Financial support of California fairs started via statute in 1933 when the state legalized pari-mutuel betting on horse racing with a portion of the funds going to the fairs. Prior to 2009/2010, the primary fund source for the Fair and Exposition Fund was from pari-mutuel horse racing license fees. The shift to the General Fund occurred at a time when horse racing in California was struggling to survive and revenue shortfalls within the Fair and Exposition Fund were at record highs, thereby jeopardizing the solvency of many California fairs. In the 2011-2012 budget, that \$32 million was eliminated completely.

The Division of Fairs & Expositions is currently operating on fair loan payments and limited horse racing funds (race industry settlement and 1% of betting at racing fairs). This source of funding will begin to drastically decline in the 2014-2015 fiscal year as loans and the horse racing settlement are paid off. F&E cut its operating staff in half at the end of the 2010-2011 fiscal year and presently has just nine permanent, and four part time employees.

F&E plans to operate with three main objectives in mind. With the lack of funding to allocate to all fairs, F&E is focusing on oversight of the existing 52 district agricultural associations under the overall goal of providing the ultimate public benefit to the state as it relates to the fairs. Objectives include community relevance, fiscal /policy oversight, and assisting the fairs in understanding their role and responsibilities of being

a state entity (i.e. compliance with state contracting, purchasing, procurement and personnel policies and regulations). F&E is also exploring a new role in the state's fast growing agritourism industry serving as a portal for information, resources and networking. Fairs are agritourism and the fair industry has much to offer the new agritourism businesses and festivals sprouting up around the state.

F&E just completed a strategic planning process and developed a new mission statement which is: The California Department of Food & Agriculture Division of Fairs & Expositions provides leadership to the Network of California Fairs and builds collaborations among the fairs and industry stakeholders. In its oversight role, the Division creates a framework for administration of the state's 54 district agricultural associations and the California State Fair & Exposition allowing for maximum autonomy and local decision making authority.

The Network of California Fairs governance and property ownership

The Network of California Fairs is made up of 54 district agricultural associations, 23 county fairs, two citrus fruit fairs, and the California State Fair & Exposition. Of the 54 District agricultural associations, two are currently inactive.

The District agricultural associations are state entities governed by a nine-member board of directors appointed by the Governor. Board appointments are "term" appointments and each board member serves a four-year term. When a board member's term expires, that member serves until they resign or are reappointed or replaced. All district agricultural association employees are civil service state employees except for the CEO who serves at the will of the board.

Of the 52 active District agricultural associations, 44 operate on state property. The remaining eight operate on county, city or other property via a lease agreement (please see attached list). The state property fairs are considered to be owned by the state, according to the Department of General Services. There have not been full title searches on these properties in recent years, however, fair history and preliminary title reports done around 2001 show that the title of the property is often listed in the name of the district agricultural association and title is restricted to use as a fairgrounds per deeded title from the donating party.

CDFA currently favors retaining ownership of the 42 state-owned fairgrounds by the state for a variety of reason. First, the ambiguity of clear title is an impediment. Title research for the state-owned sites has not been conducted for some time, except for three or four specific fairs. The appropriate level of due diligence would be costly and take time. From the preliminary title report that we do have for about half of the fairs it appears that many of fairgrounds are comprised of multiple bequests of property to the state. In several of the cases there is evidence of reversions to the original bequeathing owners and restrictions on use that would need to be resolved in order to facilitate a market rate sale.

State fairgrounds also provide vast benefits to the local communities and state emergency response system. Both Cal EMA and Cal FIRE depend heavily on the availability of the fairgrounds for evacuation centers (only place to house people, pets and livestock at the same location), command centers, and emergency response staff housing.

Other benefits include:

- Agriculture Literacy
 - Through annual fair events and interim programs, California fairs teach the public about the origin of their food and fiber.
- Positive Economic Impact
 - California fairs have a \$2.85 billion economic impact on the state. Generating \$127 million in sales tax.
 - Fairs provide for 25,223 fulltime jobs generating \$856 million in wages.
 - A successfully operating fairground provides constant revenue to the state and local community.
- Education
 - Fairs provide the venue for numerous educational opportunities from public awareness campaigns to youth leadership through 4-H and FFA.
- Community Showcase
 - Fairs provide a single location to display all the talents and skills of community members from sewing and canning to fine arts and performing arts.
- Entertainment
 - Fairs provide affordable family entertainment including headline musical concerts to local talent shows and everything in between.
- Recreation
 - Fairgrounds provide facilities for recreation opportunities of all types, including horseback riding, motor sports, and walkathons.
- Tourism
 - Fairs bring people from outside the county and city to communities as a major tourism draw.
- Social Impacts
 - Fairgrounds provide affordable facilities for numerous community activities including weddings, cultural gatherings, along with voting, health fairs, veterans' services events, and service club fundraisers.
- Security
 - Fairgrounds provide training facilities, flu shot drills, National Stock Pile locations, and many other services that support homeland

security efforts for the local community, the county, the region, the state and the country.

- Diversity of Trained Personnel
 - Fairgrounds staff are cross trained in many areas outside of production of the annual fair including emergency response, animal health and husbandry, large gathering accommodation.
- Retention of Needed Open Space
 - Fairgrounds are often the only remaining areas in a community that provide vast amounts of open space for a variety of activities from community celebrations to emergency services.
- Community Nonprofit Fundraising Opportunities
 - Many service clubs and charities raise funds through the fairs by having a food or drink concession, contracting with the fair for services such as trash pick-up and ticket-taking.

Another challenge to selling state-owned fairgrounds is the district agricultural association properties are currently not entitled, so the land value is low. The state can only sell or lease property based on a market rate value that would be based on "highest and best use" as entitled property. It is difficult to place a value on potential use and/or current value to the community. It is nearly impossible to monetize tradition.

Currently, the 42 state-owned facilities are fully utilized. While this definition may not fit with the official Department of General Services definition of "fully utilized," each fairgrounds is operating 365 days per year. They are not surplus, dormant properties.

The sale of these state properties should be considered only when there is a willing seller, willing buyer, a supportive community and cooperative local government.

How will budget changes change the fair board system

With the elimination of the \$32 million in General Fund support, many fairs are facing financial challenges that they have never before experienced. F&E is assisting the district agricultural associations looking to reorganize and/or downsize to ensure they are remaining relevant to their communities and the constituents they serve. F&E is helping draft policies and procedures, assisting with employee lay off plans, providing guidance in best practices and providing services as necessary so that the fairs are operated in the most efficient and cost effective manner.

Some district agricultural associations are exploring the options of contracting out the operation of the annual fair event and/or the full fairgrounds to a nonprofit organization as a cost-savings measure. The 50th district agricultural association (Antelope Valley Fair) in Lancaster has formed a joint powers authority with the City of Lancaster and that JPA has contracted with a tax-exempt organization to operate the day-to-day business of the fairgrounds.

All California fairs are now solely responsible for generating all of their revenues. For the district agricultural associations it is a challenge to need to operate as a business when they are actually state entities with contracting, procurement and personnel requirements.

The absence of state support makes it all the more important for the district agricultural associations and the State Fair to improve property utilization and/or to generate revenues from the property. Proactive asset management such as that being looked at by the Cow Palace in Daly City and the successful project at the Madera District Fair in Madera are evidence that district agricultural associations can provide really good stewardship of these state property assets. Madera has a 60-year development ground lease that provides the fair with a much needed cash infusion that has allowed the fair to redevelop its facilities. The center opened in July of 2008 and is currently home to Lowe's, Dollar Tree, Big 5, Petco, Walgreens, T-Mobile, restaurants and a variety of other stores. The Cow Palace is looking at a lease for a similar development that would provide the fair with much needed revenue to address deferred maintenance issues at the facility.

CDFA Fairs Consortium

The 2011-12 Governor's Budget May Revision included a directive to the Secretary of Food & Agriculture to develop a comprehensive plan for the Network of California Fairs to be included in the Governor's 2012-13 Budget. CDFA Secretary Karen Ross convened a 37-person consortium of Department staff, California fair industry representatives, state agency representatives, staff from the legislature, and other stakeholders to explore alternatives to the traditional state financial support and current governance of the Network of California Fairs, with emphasis on the district agricultural associations.

The consortium had several recommendations to the Secretary including the consideration of removing district agricultural associations from state governance. The consortium also recognized that there are some fairs that may fail financially in the next 15 months due to the lack of state support, however, those that are relevant to their communities have a strong chance of surviving through revenue generating and cost saving measures that will have to be implemented.

The Governor's proposed 2012-13 budget does not address fair governance, continues to work on possible solutions to providing district agricultural associations with opportunities to be more entrepreneurial and have the flexibility to be more innovative.

The district agricultural associations themselves are exploring options including forming joint powers authorities with local government or contracting out operations of the fairgrounds to nonprofit organizations.

Costs of closing state-owned fairgrounds

Should a district agricultural association have to close its fairgrounds permanently, there will be a cost to the state. There are many variables to consider when putting a true cost

to this including maintaining the facility for use as an emergency facility, pest control, liability insurance, amount of leave liability on the books that the district agricultural association cannot cover, security of a vacant property (ranging in size from 50 acres to 250+ acres), etc.

CDFA estimates it will cost from \$100,000 to \$500,000 annually to maintain a vacated fairgrounds if the property remains owned by the state. One-time employee leave liability costs would be in addition to this and that varies by fair depending on the size of the staff.

Date: Wed, 15 Aug 2012 16:12:38 -0700 (PDT)
From: David Kegebein <dave@bestberrys.com>
Reply-to: David Kegebein <dave@bestberrys.com>
To: John Kegebein <johnjek@sbcglobal.net>, Mary Bannister <bannister@pwwma.dst.ca.us&
Subject: Fw: Dear Fair Managers

FYI.....Dead on arrival Fairs Structures Proposal.....Dave

----- Forwarded Message -----

From: "Ross, Karen@CDFA" <secretary.ross@cdfa.ca.gov>
To:
Sent: Tuesday, August 14, 2012 1:36 PM
Subject: Dear Fair Managers

Thank you for sharing this message with your directors. I want to begin by thanking you, your board members and staffs for the valuable service you provide California. Fairs are part of our community fabric and their success depends on your passion, creativity and determination. These talents have certainly been tested since the budget crisis forced the removal of General Fund support, but throughout the state we have seen the hallmark of what will ensure continued success -- innovation, community outreach and entrepreneurial spirit!

When we embarked on the consortium process a year ago, I had high hopes for what we could achieve and how quickly we could achieve it. Many people took time out of their busy days to help us develop alternatives that could bring relief to the fairs. After the Consortium process created a set of options, CDFFA worked with sister agencies and legislative leadership to research the details and create a package that could move forward. Many hours were invested to develop modest proposals for relief.

The most promising was in the area of contract relief. The other was to transfer all personal property to the DAAs to relieve them from various reporting demands. Both measures would provide more flexibility in day-to-day decision making while ensuring appropriate but reduced oversight for entities that will continue to operate on state-owned properties, governed by state-appointed directors, employing state civil service personnel. One of the challenges was to address concerns that were raised about potential liability that could be incurred as a result of reduced oversight. As with all legislative proposals, trade-offs were necessary.

In this case, there was a need to balance reduced oversight and freedom for DAAs to operate with an accountability mechanism for appointed decision makers who may neglect their fiduciary responsibilities. Currently, directors serve four year terms and can only be removed for missing three consecutive meetings or violating the law. The proposal was to change the structure to allow for termination of the appointment prior to the expiration of the term. The proposal was not an attempt to politicize appointments or in any way disrupt the workings of the boards. It was simply a mechanism, used throughout government, to ensure accountability and to be used only for cause.

Unfortunately, while I understand the financial strain fairs are under, I made clear from the beginning of the consortium process that CDFFA could not address funding in any proposal that it put forward for the Administration. That is not to say how the Administration might feel about alternative funding mechanisms, simply that the consortium was not intended to consider that question. On the other hand, the fairs industry has made clear that it cannot support the above proposals unless a funding mechanism is included.

Therefore, CDFFA is withdrawing its proposal for oversight relief. I am more

interested in taking additional time to work with you to ensure a collaborative, long-term relationship and continue our communications in preparation for the next legislative session. Even though I am frustrated that progress has taken as long as it has, I am optimistic that with a little more time and discussion we can come together on a set of reforms that will set the fairs on the path to sustainability.

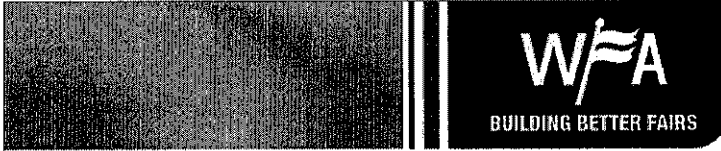
Yours truly,

Karen Ross, Secretary
California Department of Food and Agriculture
1220 N Street, Suite 400
Sacramento, CA 95814
(916) 654-0433
Secretary.Ross@cdfa.ca.gov

Date: Wed, 15 Aug 2012 16:45:56 -0700 (PDT)
From: David Kegebein <dave@bestberrys.com>
Reply-to: David Kegebein <dave@bestberrys.com>
To: John Kegebein <johnjek@sbcglobal.net>, Mary Bannister <bannister@pwwma.dst.ca.us& ...
Subject: Fw: California Fairs Legislative Update, Ma Legislation Suspended
3rd FYI on CDFA Proposal.....Thanks.....Dave

----- Forwarded Message -----
From: Western Fairs Association <lorih@fairsnet.org>
To: dave@bestberrys.com
Sent: Wednesday, August 15, 2012 3:26 PM
Subject: California Fairs Legislative Update, Ma Legislation Suspended

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Ma Legislation Suspended,
Plan to End DAA Term Appointments Fails

(August 15, 2012)--The California Fairs Alliance (CFA) advocacy team had been working diligently to develop a comprehensive California fair legislation package for introduction by California Assembly Member Fiona Ma when the legislature returned for its final 30-day session on August 6. Late developments forced difficult negotiations that failed to produce a compromise on August 13. As a result, Assembly Member Ma decided not to pursue fair legislation in the final weeks of the session.

"Getting a bill to the Governor's desk in the final weeks of session is a difficult task and all involved need to be united," said Ma. "Though the progress we made on governance was a good one, there were a few critical pieces to the fair industry that were unresolved. I am disappointed that we could not come to an agreement, but I am hopeful that these issues can be worked out next year."

California Fairs Alliance Legislative Goals
CFA established three clear goals at the beginning of the 2012 session.

- Give fairs greater local control. Allow fair boards and fair management the authority to approve their own budgets, conduct independent audits and manage their operations locally.
• Provide administrative relief for District Agricultural Associations (DAAs). Allow the districts greater local control over contracting, procurement and their personal property, including vehicles.
• Recapture fair funding. CFA further developed the license plate income strategy first introduced by Senator Doug LaMaifa to create new non-General Fund revenues for California's fair network.

Legislative Proposals and Director Appointments

On August 3, the last day before the return of the legislative session, the CFA advocacy team submitted the final comprehensive package to Ma's office for introduction. Every component of the proposal had been approved by a legislative committee in another bill or had been thoroughly reviewed by the administration. At Assembly Member Ma's direction, every detail of the plan had been shared with agencies, labor and legislative leaders. We were completely transparent. We had listened to input from many sectors and amended our proposal accordingly.

On the same day, the administration via the California Department of Food and Agriculture (CDFA), also submitted a proposal to Assembly Member Ma's office. Their proposal addressed only one of our three goals, administrative relief for DAAs, and included a new concept, shifting all 486 DAA director appointments to serving "at the pleasure of the Governor" as opposed to the current four-year term structure. Our team had several discussions over time with the administration about their proposal. However, we did not see the language regarding board members in writing until this time, which is why it came as a surprise. While we were pleased to see the administrator's first official position on fairs since the proposal to eliminate funding in January 2011, we were concerned about the change to DAA boards--that the change in the method of DAA director appointments would create the potential for a 100 percent board turnover which could be devastating to the ongoing operation of the DAAs. We were also concerned that with directors serving "at the pleasure" of the Governor, local issues could more easily be pushed up to the Governor's desk for review.

We then spent two business days sharing those concerns with the CDFA and Assembly Member Ma. We noted that every other component of both proposals had been reviewed and/or approved in various meetings. The director concept was new and could bring opposition from several interests, including our own members. We acknowledged that there had been discussions regarding the DAA appointments process and that we knew that the Governor was likely frustrated with some elements of the process. We also noted that every Governor has faced challenges with the task of managing 486 fair board appointments.

After seeing no change in the administration's position, we sent a special report to our California fair members on August 8. This triggered a strong negative response from many members including fair executives, fair directors, rodeo contractors and other related interests. As a result, we concluded that we could not support the administration's plan without further negotiation. Absent the time necessary to conduct those negotiations, Assembly Member Ma put both proposals on hold.

Moving Forward

As we move forward, we take three important facts from the last two weeks. First, it is clear that the administration can and will support administrative relief for DAAs and in that regard, the two proposals are extremely close. Second, there may be ways we can address the Governor's interest in greater control over DAA boards without shifting them all to "at the pleasure" appointments. Lastly, while we know that the Governor will not support funding fairs from the General Fund, his office has "no opinion" on the license plate revenue concept.

We see these facts as a good foundation for continued progress. We appreciate the fact that the CDFA and Secretary Ross appear to be fully committed to finding solutions that support the fair network. We continue to believe that California's fairs need a comprehensive solution that addresses the concerns of the entire network.

CFA Board Meeting

The California Fairs Alliance Board will convene a planning session in September and all members will be invited. At that meeting, they will revisit their goals and strategies. The advocacy team will then translate these goals into legislation to be introduced next legislative session. We will also encourage the legislature to conduct interim hearings, so they can hear directly from California's fairs. We encourage you to share your thoughts with your WFA elected representatives and our team as we move forward. As always, we are deeply appreciative of your support.

Thank you.

Western Fairs Association
Stephen Chambers, Executive Director
1776 Tribute Rd., Suite 210
Sacramento, CA 95815-4495
stephenc@fairsnet.org
916.927.3100, Fax 916.927-6397

CFA logo and social media icons (Facebook, Twitter, YouTube) with a long alphanumeric tracking code.

Forward email

Date: Wed, 15 Aug 2012 16:11:15 -0700 (PDT)
From: David Kegebein <dave@bestberrys.com>
Reply-to: David Kegebein <dave@bestberrys.com>
To: John Kegebein <johnjek@sbcglobal.net>, Mary Bannister <bannister@pwwma.dst.ca.us&
Subject: CDFA Proposal - Fairs Structures

FYI.....Dave

----- Forwarded Message -----

From: Lori Hanley <lorih@fairsnet.org>
To: Lori Hanley <lorih@fairsnet.org>
Cc: Stephen Chambers <stephenc@fairsnet.org>
Sent: Thursday, August 9, 2012 9:28 AM
Subject: Legislative Update, Urgent

WFA MEMORANDUM

MEMO TO: California DAAs
FROM: Stephen Chambers
DATE: August 9, 2012
RE: Fair Funding Update

The final days of the 2011-12 legislative session are upon us and we have been working to roll out legislation that combines governance reform for District Agriculture Associations (DAAs) and a funding plan for all fairs. During the recess, we have been actively seeking input from the administration on both topics with limited success. Late last week, we were informed that the California Department of Food & Agriculture (CDFA) had submitted its own proposal to legislative counsel. Their proposal offers relief for DAAs in the areas of contracting and procurement but it ignores our license plate funding concept. The CDFA proposal also includes an amendment that changes the current DAA director appointment structure from a "current term" appointment model to an "at the pleasure" structure. This would allow the Governor to remove any DAA director at any time, without cause. **This represents a significant change in our network structure and we need immediate feedback from our DAA members.**

Brief Analysis of the Concept

â€¢ **Background**--Governors have been appointing directors to DAA boards for more than 100 years. In all cases, these are for set terms and DAA directors continue to serve past their term dates until replaced. The Governor is responsible for 486 appointments under this structure. DAA directors may be removed for cause as defined in the law.

â€¢ **Analysis**--We fully understand the problem the administration is trying to solve with an "at the pleasure" amendment. If we assume a 99 percent success rate from the Governor's appointments team, that still leaves an average of 4-5 fair directors who are under performing in various ways. Regardless of whether these under performers are from the previous Governor or an error by the current administration, the result can be very frustrating. The current "for cause" process to remove a DAA director is cumbersome and ineffective. Shifting the process to an "at the pleasure" structure could solve this problem. At the same time, asking all 486 DAA directors to serve at the pleasure of the Governor instead of defined terms of office has serious implications for California's fair network.

Top Three Implications for Fair Network

â€¢ At will appointments are designed for individuals who work directly for the Governor. Shifting DAA appointments to this structure could then raise the