
**CALIFORNIA VENDORS
POLICY COMMITTEE
(CVPC)**

**Meeting Minutes
March 27, 2008**

CALIFORNIA VENDORS POLICY COMMITTEE

Meeting Minutes

Meeting commenced at 10:00 am, Thursday, March 27, 2008.
Location: Front Street State Building, San Diego, CA

INTRODUCTION/CELL PHONE CHECK

Chair Hatch reiterated the rules of participating in the meeting, including requesting that all cell phones be turned off during the meeting.

ROLL CALL

Chair Hatch called the meeting to order at 10:00 am. He began the meeting by taking a roll call of attendees.

The meeting was in compliance with November 1995 Motion 95.212 disclosure requirements for delegates. There were ***eight (8) delegates*** in attendance, which satisfied the requirements of a Quorum.

It was noted that David Hanlon would be sitting in as an alternate for District 10. It was also explained that District 1 elections have not been successful. The Executive Committee will be suggesting assigning Tom Linker permanently as the Delegate for District 1.

Delegates in Attendance:

District	Delegate	Location
District 1	Tom Linker	The Presidio of Monterey Monterey, CA
District 2	Joe Murphy	Turlock Roadside Rest Area, Turlock, CA
District 3	Steve Adams	Folsom Prison Folsom, CA

District 4	Andy Brown	Facility 342, Resources Snack Bar and interim Department of Justice Sacramento, CA
District 5	Michael Hatch	Concoran State Prison
District 6	Scott Schamber, Absent at time of roll call	Delano State Prison, Delano, CA
District 7	Harry Begian Absent at time of roll call – arrived at 10:55 a.m.	Cal Trans Los Angeles, California
District 8	Jack Bedikian	Bulk Mail Center – U.S. Post Office Bell City, California
District 9	David Collins Absent at time of roll call	California Rehabilitation Center, Norco, California
District 10	David Hanlon Sitting in for Frank Maestas	Spawar Snack Bar San Diego, CA

INTRODUCTION OF STAFF AND GUESTS

Joe Xavier, Program Manager
David Norris, SBEC Southern Region
Janis Friesen - CVPC Executive Secretary
Toni Stratton - CVPC Recording Secretary

Guests and BEP Vendors:

Juan Aguilar – BEP Vendor
John Friesen - retired BEP vendor Sacramento

Roy Harmon - BEP Vendor
Ken Okin – BEC
Craig Kinder – BEP Vendor
Laura Kinder –BEP Vendor’s spouse
Sandy Brown - BEP Vendor’s spouse

MINUTES – Recommended Action

Approve the minutes of the CVPC meeting held on January 16, 2008 and the responses to the CVPC motion of January 16, 2008.

MOTION 2008.014. Moved that the committee accept the minutes of the January 16, 2008 California Vendors Policy Committee meeting as distributed.

Moved: Delegate Brown
Seconded: Delegate Murphy
Vote: Passed Unanimously
Absent: Delegate Schamber
Delegate Begian
Delegate Collins

Mrs. Friesen read the responses to the motions from the January 16, 2008 meeting:

Election for the 2008-2009 term: Delegate Hatch was elected as the Chairperson; Delegate Murphy was elected as the Vice-Chairperson; Delegate Brown was elected as the Secretary-Treasurer. BEP’s response was that they supported the motion and welcomed the opportunity to work with each of the executive members.

Motion to continue the Healthy Foods Task Force for the 2008-2009 term – no BEP response required.

Motion to continue the LA County Task Force for the 2008-2009 term – no BEP response required.

Motion to continue the Nominee Agency Task Force for the 2008-2009 term – no BEP response required.

Motion that the committee create an Educational Conference Task Force for the 2008-2009 term – no BEP response required.

Motion that the committee accept the Chairperson's recommendations for Sub-Committee and Task Force – no BEP response required.

Moved that the committee accept the minutes of the November 8, 2007 CVPC meeting – no BEP response required.

Motion that the CVPC provide the authority to the CVPC Executive Committee to work with Senator Torlakson's office on SB 441 – no BEP response required.

Motion that the CVPC agree to assist BEP with the 2008 Educational Conference to be held in Los Angeles – BEP Response: The motion appears to imply that BEP will be putting on the 2008 Educational Conference. BEP is working to co-present its BEP staff annual training with the vendor's conference. BEP's commitment and staff participation is subject to provisions of Executive Order S-0108 and provisions of applicable bargaining unit contracts. BEP's liaison to the Vendor's Educational Subcommittee is Tony Candela.

Motion that CVPC has selected Delegate Begian and Delegate Maestas to represent CVPC on the Directors Task Force on BEP – BEP Response: Supports the motion and welcomes the opportunity to work with the delegates who are representing CVPC.

EXECUTIVE OFFICER'S REPORT

Report of the Chair

- a. The Executive Committee met with Director Sauer on February 15, 2008.

Ms. Friesen read the action items from the January 16, 2008 CVPC meeting:

Tony Candela to ensure that by the next CVPC meeting a quarterly report will be received with regular quarterly reports to follow thereafter. Response: Chair Hatch noted CVPC has received information regarding the Trust Fund and information regarding the breakdown of locations and fees. Since Mr. Xavier has just stepped in as acting program manager, Chair Hatch would like to give him time to submit the program manager's quarterly report.

Chair Hatch noted that he has not heard a good explanation of why CVPC cannot see the regulations for comment before it goes to agency. This is an ongoing issue. Mr. Candela will find out the answers and get back to Chair Hatch.

Delegate Maestas asked Mr. Candela when CVPC will receive his response regarding the above issue. Mr. Candela said he would have an answer within two weeks. An answer was received on March 17.

Ms. Friesen read Mr. Candela's response to the action items (regarding proposed regulations for business enterprise program for the blind). The letter mentioned that CVPC felt that submitting comments after the proposed regulations are submitted to Agency for approval would result in either additional work for Department staff or the Department would not consider such comments. The Department has worked with CVPC to develop the regulations. The Department's regulation staff made technical changes to the regulations but there were no substantive changes to the regulations from what was last provided to the CVPC on January 10, 2008. The proposed regulations were finalized and the Department notified the public of the proposed rulemaking on February 29, 2008. The Department welcomes the comments of the CVPC during the public comment period, as well as at the public hearing on April 29, 2008.

Every rulemaking agency, such as the Department, must follow the rulemaking procedures of the Administrative Procedures Act

and the Office of Administrative Laws and Regulations unless expressly exempt by statute from some or all of these regulations. The rulemaking process is designed to provide the public notice and the opportunity to comment orally, or in writing, on the proposed rulemaking public involvement prior to the formal rulemaking process is at the discretion of the rulemaking agency.

Chair Hatch said Mr. Candela's letter does not answer the simple question of if the Department had already sent the Regulations to Agency. The reason for this question was that if the Regulations had not gone to Agency then there would still be time to make changes and CVPC would then take the time to analyze the Regulations and submit its concerns before it was sent to Agency.

The other concern was that the Department did not share the regulations with CVPC before it was sent to Agency. CVPC would have liked to review them for substantive changes.

At the Director's meeting held on February 15, 2008, Lisa Niegel said she felt the regulation packet could be sent to CVPC before it goes to Agency and this will be done in the future.

Action Item: Chair Hatch will follow-up with the Department and ask that, in the future, they provide regulation packets be CVPC before it goes to Agency as was stated by Lisa Niegel.

Delegate Linker said he is having a hard time understanding why CVPC is not getting the appropriate communication and he asked who, at the Department, is in authority.

Delegate Adams asked if the Executive Committee has had an opportunity to review the newly released packet (7213). Chair Hatch said the subcommittee has reviewed it and made recommendations to the Department.

- b. Executive Committee meeting with Director Sauer on February 15, 2008.

Chair Hatch said Director Sauer and Chief Deputy Director Luciana Profaca seem to be quite concerned about the program and its problems, and accept the fact that mistakes have been made. They know there is much work that needs to be done with this program. CVPC has not seen this demonstrated in their actions up to this point. He hears the good intentions but sometimes the actions do not match the intentions.

There was also a discussion regarding active participation. CVPC does not believe the Department includes them, the way that it should, according to the law. He remains hopeful that the people at the top level of the Department are concerned and will make the changes needed in order to move the program in the right direction.

Vice Chair Murphy said he feels Mr. Sauer is definitely willing to be open. Unfortunately, when matters get to program level communication is lacking. He cited the letter from Tony Candela, which Mrs. Friesen read earlier. This letter indicates someone who is trying to justify NOT communicating openly with CVPC. Mr. Candela seems to be hiding behind regulation and the reality is there is no reason for him not to take the subcommittee's recommendations. CVPC is only given active participation when the Department is forced to do so. This is fostering an adversarial environment.

Vice Chair Murphy said that Mr. Candela's letter seems to treat CVPC's package as part of the general public. CVPC is a stakeholder in the Rules and there is a process in place for CVPC to have a say.

Delegate Hanlon said he believes CVPC should take a very strong stand and file a letter of protest regarding the rules and regulation process.

Chair Hatch said he is seeing certain improvements, such as the receipt of some budgetary information from Mr. Xavier. If CVPC had been receiving this type of information all along, and had been able to work with the Department in analyzing it, the

set aside fund would not be in the situation it is in now where there is no money to develop new locations.

Another improvement is the strong work that is being done by Joanne Fleming in the area of development. Even though there is not money to develop locations, the building blocks are being set for the future.

Action Item: Delegate Adams said if there is an environment of non-participation from the Committee's perspective then a grievance should be filed. Delegate Hanlon said there is evidence of lack of participation. He cited the arbitrary decision made by Tony Candela regarding the dental, medical, and life insurance plans for the vendors. He too feels a grievance should be filed.

c. DOR Cost Reduction Measures Letter dated March 4, 2008

Mrs. Friesen read a letter regarding Executive Order S-01-08 which requires DOR to reduce travel costs by canceling or postponing discretionary travel for seminars, conferences, or training; restrict the size of Agency, Department Division, and Unit meetings; restrict travel to central participants only, utilize video conferencing and teleconferencing; schedule meetings at locations at or near headquarter offices. While the DOR has already instituted several cost saving measures to contain expenditures without reducing services to consumers, it must now take additional steps to comply with this Executive Order.

Effective immediately, and until further notice, all DOR advisory boards, counsels, and committees shall limit their meetings to the annual number required by statute. If meetings are not statutorily required a limit of one annual meeting per year shall be implemented. More specifically, the State Rehabilitation Council is required by federal law to meet four times per year and will be limited to this number. The Deaf Advisory Committee and the Blind Advisory Committee, both established in state statute, do not have statutory requirements regarding the number of meetings that must be held annually. Therefore, these committees shall be limited to one annual meeting.

The California Vendors Policy Committee, required by federal regulation and state statute, does not have a statutory requirement regarding the number of meetings that must be held annually. Therefore, the Committee shall be limited to one annual meeting.

Chair Hatch said he expressed his concern to Director Sauer about the restriction of CVPC meetings. A comment was made at some point that DOR funds had been used for BEP and CVPC business. He told Luciana Profaca that CVPC operates off the set aside fund and not the general fund and he did not think it was fair that the CVPC was grouped in with the other commissions. He was told that DOR money was used to subsidize the program and that is why the meeting restrictions were made.

Chair Hatch told Ms. Profaca that it was not reasonable to expect CVPC, who holds their meeting over an entire day, to hold a meeting over the telephone. In addition, because of the Bagley-Keene Act the Committee members could not be in their home for a teleconference. They would have to be at some central location that is open to the public. He also asked for documentation to show where DOR money was spent on CVPC business.

A follow-up letter was received that clarified the following funding information. It stated that: "While in prior years general fund was used to cover some CVPC vendor expenses, currently DOR's allowable CVPC vendor expenses Unit 014, including travel, are being charged exclusively to Trust Fund funds and matched with federal funds. However, please be aware that travel expenses for Janis Friesen, BEP staff, and Tony Candela are funded by general funds and other federal funds and not those allocated to BEP. This staff is required to live within their unit budgets."

"Travel to attend CVPC meetings will be limited by these budgets. Thus, because the Trust Fund is not sufficient to cover all the CVPC vendor travel and vendor facility costs, the Deputy Director of Specialized Services, program staff, and the CVPC will need to prioritize activities and operations.

Expenditures will be restricted to available Trust Fund funds and no additional money will be made available as they exceed their budgets.”

“In sum, CVPC may continue to meet quarterly if it determines that it will use the Trust Fund for that purpose. Support staff will be able to travel insofar as their budgets permit.”

CVPC’s current fiscal year budget is \$39,000, down \$17,000 from the previous year’s budget of \$57,000. When the recent budget crisis occurred CVPC’s budget was reduced another 10 percent; from \$39,000 to \$35,100. The educational conference that occurred last October cost \$30,000, which now leaves only \$5,000 for the balance of this year. Travel is already in excess of this \$5,000.

The projected budget for next fiscal year is \$35,000. With this budgeted amount CVPC cannot carry on its meetings and hold the educational conference. This Committee will have to choose whether it wants to have two meetings a year and continue the educational conference, or choose not to hold the educational conference so that it can meet quarterly.

Chair Hatch said he had a telephone conversation with Tony Candela who hinted that perhaps the Department could pay for part of the educational conference. Most states complain that the Department does not allow them to get involved with the setting up of conferences, whereas CVPC tends to complain that the Department does not help enough in setting up educational conferences.

Chair Hatch said as long as the State is under this budgetary crisis, and because staff’s travel comes from general fund money, then perhaps holding CVPC meetings in Sacramento should be considered.

(Scott Schamber, District 6 arrived at 11:10 a.m.)

Chair Hatch mentioned that the Committee should always be cognizant of the fact that the money it spends is coming from

the same source as for the money to make repairs, purchase equipment, and develop locations.

Mr. Xavier said every committee is impacted by the budget reductions but the difference is the source of match. The other committees do not have an alternate source of match.

John Friesen asked why the budget was cut from \$57,000 to \$39,000. In his estimation it sounds like there was an arbitrary decision made by budget to make this cut. Mr. Xavier said the projected budget for 08-09, that he will be presenting later on in the meeting, will address many of the questions. The 014 is a BFTF match and is subject to the condition of the fund today and the budget moving forward.

d. BEP Internal Control Audit Update

Chair Hatch said he posed the question at the Director's meeting as to what role CVPC will have in working with the audit solutions. BEP has responded to the internal audit and he asked Mr. Xavier how he perceives the role of CVPC in trying to come up with ways to fix the problems that were pointed out in the audit. Mr. Xavier said he has read the audit and understands the issues and the work that needs to be done. Time has not permitted him to single out where CVPC involvement will be directed. In order to take actions on the audit report there needs to be foundational changes to how business is being done.

- e. SB 441- Healthy Foods in Vending Machines on State Property** – The Executive Committee met with Senator Torlakson's office. It was explained what CVPC would need to see happen in order for it to drop its opposition. One thing that was asked of them is for the Senator's help in evaluating whether there is a way for the program's health insurance and/or retirement to be rolled into the PERS program. Senator Torlakson's office has asked the Senate Research staff to do a study of BEP and look into the problems it is experiencing. The bill is not moving forward.

Action Item: Chair Hatch will follow-up to see why they have not responded to the changes CVPC requested.

Vice Chair Murphy said Senator Torlakson's office asked the Executive Committee to meet with the Pepsi Bottling Company to research some healthy choices. In principle they do not support any legislation that would, in any way, attempt to control the free market. However, CVPC would consent to dropping opposition if the language of the bill would include "diet soda" and some of the juices as part of a healthy choice. He has not heard back from Senator Torlakson's office.

f. AB 2608

Mrs. Friesen noted that this is a bill that California Council for the Blind proposed. This bill would continuously appropriate an amount from the Federal Trust Fund for payment to the Department of Rehabilitation for the administration of specified programs, including payments to providers and consumers of rehabilitation services during any period of fiscal year for which the Budget Act has not been enacted by July 1 of that fiscal year.

When the budget is not signed, and the vendor's need service, and there is not payment for it, this bill would allow the service to happen. It would also allow for the tuition or books for students.

This bill has not been heard in any committee so far but the Human Services Committee will hear it first. This is a bill of interest to CVPC.

Vice Chair Murphy asked if CVPC should take an active role in this bill. Delegate Brown said he believes CVPC should support this bill.

Action Item: Delegate Hanlon said this bill would be appropriate for the Executive Committee to analyze and determine whether this is a bill CVPC should support.

g. AB 2716

This bill would provide that an employee, who works in California for 7 or more days in a calendar year, be entitled to paid sick leave. Mrs. Friesen said a small business (less than 25 employees) can limit how long an employee can be gone but the bill still affects small businesses the same. This bill has not been heard in committee.

Action Item: Vice Chair Murphy said CVPC should consider taking a position of opposition. Mrs. Friesen will continue tracking this bill and report findings as they occur.

h. Report on the BEP Task Force Meeting

Delegate Begian reported on the BEP Task Force meeting as follows:

The facilitator asked the members to express the strengths, weaknesses, opportunities, threats, etc. regarding CVPC. The CVPC representatives mentioned the issues that confront this program.

Delegate Begian said his concern was in the area of what will happen after the meeting, i.e., how will the problems be addressed and made right. He recommended creating a work group to work on the issues in the areas of development, training, benefits, and financial reporting. Once it is approved by the working group it would be presented to the BEP Task Force for approval and then to CVPC.

Delegate Maestas said this meeting was a great opportunity to discuss how to structure the BEP in a way that would standardize the program in different areas. A two-week timeline was set to evaluate information gathered and then a second meeting would be set up. This is an opportunity to resolve not only past issues but to have a future that is cohesive.

Delegate Begian said he would like to set up a conference call with representatives from CVPC, CCBN, and BAT to discuss a strategy before the next Task Force meeting.

David Hanlon said he attended the Task Force meeting, as a representative of Randolph Sheppard Vendors of California, and he found the meeting to be interesting. He is hopeful that the Department is serious in making recommended changes.

Mr. Friesen said there is a need to define the program and standardize the training, equipment, layouts, etc. in order to make the proper evaluations. Mr. Candela was supposed to have taken the notes from the participants attending the meeting, summarize it and send it out. He asked the CVPC representatives to be sure that CVPC receive a copy of that package.

Chair Hatch said he was somewhat disappointed in the Task Force meeting because there were no SBEC's in attendance. BEC's have valuable input and it would have been good to have them attend.

Mr. Xavier said the Task Force is a rudimentary beginning on how to make some effective changes. Basic information is needed in order to make good decisions.

Chair Hatch noted that Delegate Frank Maestas, District 10, is now at the table.

VICE CHAIR REPORT

Report of the Vice Chair

- a. BEP Retirement – Vice Chair Murphy noted that the Retirement Committee met to make a decision on when the transfer from Great West to Prudential will take place. The Committee felt that if monies are in a stable fund at Great West then it should also go into a stable fund at Prudential. It makes sense to have an age-based fund as a default fund, but it should only occur for new vendors that have never been in the plan before. A plan review is scheduled for April 7 to make sure everything that is stipulated in the current 457 Plan remains as is with Prudential. There will be development of a letter which will be sent to all plan participants on April 21 providing detail as to

what their fund choices will be and when the blackout period will begin and end. The target mailing date is April 23 and the process should be completed by May 1.

Prudential will make a phone call to each plan participant after the move as a way of introducing themselves and to go over their individual information.

Delegate Begian suggested that Prudential send vendors a quarterly report depicting which companies are low risk, medium risk, and high risk and to explain the report in an effort to educate vendors. Delegate Maestas said Prudential can provide this type of report and all that is needed is a request from CVPC.

Vice Chair Murphy said it is the Department's position that it is the Retirement Committee's responsibility to make decisions for the entire plan membership, which CVPC and active members are a part of. When CVPC requested to have the information sent to all plan participants Mr. Candela said he did not have a list of all plan participants; the list is with Great West.

Action Item: Vice Chair Murphy said any information he receives from the Retirement Committee will be forwarded to Mrs. Friesen in order to get it to all members.

Delegate Linker said he would like to go on record noting that this is another example of Tony Candela where he controlled the Retirement Committee meeting with no agenda, no communication, and not stepping up to send out the information to the vendors.

Chair Hatch said Mr. Linker is correct. He did not receive information about the meeting until noon the day before the meeting. The meeting was scheduled for 3:00 p.m. and the conference information was not received until 4:30 p.m. the day before. This is a total inappropriate way to notify vendors of a meeting to discuss their retirement program. The Department had been notified of this meeting two weeks in advance,

however CVPC was only given a 24 hours notice of the meeting.

- b. Approve CVPC Executive Committee's recommendation to fill vacancy in CVPC District One.

MOTION 2008.015. Moved that CVPC appoint Tom Linker as the Delegate representative from CVPC District One because there have been three elections in that district and Tom Linker has submitted his name for nomination twice and since there have been three elections with no satisfactory result, no result at all, that CVPC accept Tom Linker as Delegate for District one for the balance of this CVPC term.

Moved: Delegate Murphy
Seconded: Delegate Adams
Vote: Passed Unanimously
Absent: Delegate Collins

REPORT OF THE SECRETARY-TREASURER

Secretary-Treasurer Brown provided the following report:

- a. BAC Meeting held March 5, 2008 – Three items that concerned him was:

(1) When Kathy asked Tony Candela about the state of the Trust Fund Mr. Candela said some vendors have not been turning in their monthly operating reports and/or paying their fees correctly. The general feeling of the Department is that this is the vendors' problem; it's their program and they need to get after the vendors and tell them to pay the fees.

Secretary-Treasurer Brown said he sent a letter to Mr. Candela requesting him to clarify whether or not the Department is going to try to collect fees. A letter was received from Mr. Candela and Mrs. Friesen read it to the members present: "... My message to the BAC indicated that there are so many vendors who are delinquent in paying their fees that given DOR's

current capacity to prepare licensed termination packages and given the current state of the Trust Fund, it is important for vendors to do their share to protect their program. DOR will not be able, in the near future, to pursue all but a few vendors in any given time period. When DOR staffing pattern changes or other capacities are improved it will be more realistic to expect it to pursue delinquencies more quickly. In the meantime, improving the Trust Fund must be a joint effort of vendors and DOR.”

(2) Another concern was when Kathy asked Mr. Candela about the BEP Task Force that BAC had suggested. Mr. Candela said it was a future task force. Kathy told him that she had asked that a Task Force be put together to identify the problems that BEP has and how to go about fixing them. It is not possible to go into the future if the program is broke now.

(3) The last concern was Mr. Candela’s response to a question about the Internal Control Audit. Mr. Candela said they will change the monthly operating reports in order to provide more data field. Secretary-Treasurer Brown said the Department does not have enough time to input the data that they are getting from the MOR now, and if they add more fields and data to input it will slow the process down even further.

Mr. Linker said it is bothersome that the Deputy Director, in a November meeting, stood before this Committee and said that it had his word on doing everything possible to work with the committee and vendors. Throughout this meeting Mr. Candela’s name arises. He has set up blocks and/or communication breakdowns. This is a great concern and shows a lack of fiduciary responsibility.

Delegate Adams asked if there was authority in the W & I Code and current regulations that requires a timeframe for the Department to address those vendors who are not paying their fees. Chair Hatch said there is, and the Department seems to have trouble implementing this.

Action Item: Executive Committee to file a grievance regarding the timeframe as stipulated in the W & I code and regulations for which the Department must contact vendors who are in arrears.

Delegate Began clarified that the issue of vendors who are in arrears is only one reason for the lack of money in the Trust Fund.

Delegate Linker said the Department brought the program under one umbrella whereby vendors pay their workers comp and liability insurance to the state in order for the state to monitor vendors. He said he believes the Department is breaking the law by making vendors pay insurance under this umbrella they developed. Monies come out of the Trust Fund for those vendors who are not paying the liability and workman's comp and this is another factor that is causing depletion of the Trust Fund. The Department wants control but they do not take the responsibility of controlling the vendors who are not paying.

Delegate Maestas said if the Committee feels there is a director who is not helping then they should go around him. He suggested addressing the issues with either those people above him in the chain of command or below him. Do not address him.

Vice Chair Murphy said he does not believe liability insurance and workman's compensation is something that should come out of the Trust Fund dollars. He said he also believes it is illegal for the Department of Rehab to use the Trust Fund as an overdraft protection for vendors who do not pay their insurance.

Action Item: File a grievance regarding using Trust Fund dollars for liability and workman's compensation insurance. The Department of Rehab should refund the monies to the Trust Fund. Vice Chair Murphy believes that all delinquent fees that are owed to the program should be paid by DOR to the Trust Fund because they were taken out illegally.

Chair Hatch pointed out that CVPC is actually a voting member on the BAC. BEP is just one issue that they deal with. He

asked the members if they felt CVPC should be a voting member. It was the general consensus of the members present that they would like to continue as voting members on the BAC. Chair Hatch said he would like to look into having the BAC Committee pay for travel to their meetings.

- b. CVPC Fund Balance - Secretary-Treasurer Brown said last month's statement showed a balance of \$21,388.55. Vice Chair Murphy needs to be added as a signer.

Action Item: Secretary-Treasurer Brown requested that Vice Chair Murphy go to a local Washington Mutual Bank to sign the signature card.

MOTION 2008.016. Moved that CVPC approve the purchase of 10 Human Ware Victor Streams including 1-gigabyte memory cards with funds from the CVPC Convention Fund, for CVPC Delegates, not to exceed \$3500.00. The Victor Streams will be the property of CVPC and each Delegate will be required to sign a form guaranteeing their proper care, use, and return or replacement.

Moved: Delegate Brown
Seconded: Delegate Bedikian
Vote: Passed Unanimously
Absent: Delegate Collins

Chair Hatch asked Mr. Xavier if the Victor Streams were an allowable expense could the Committee take the 21.3 percent and give it to the Trust Fund so that they could be purchased with matchable funds. Mr. Xavier said "giving" is always problematic in any context because there are rules to "giving".

Chair Hatch mentioned that when he spoke to Ray Hopkins about this issue, particularly as it deals with matching funds, he felt that from the federal standpoint this could be done.

Action Item: Mr. Xavier said the first question he would need to ask is whether the Trust Fund could purchase this kind of product, and if it could, would it be possible for CVPC to draw down the match

through the Department. Mr. Xavier will research this and get back to CVPC.

Delegate Linker pointed out that at one time Texas was in the same situation as BEP is (with a deficit in their Trust Fund). He said they have turned their program around and suggested that some research be done to see how they accomplished this.

Action Item: Requested the Department research the Texas program.

EXECUTIVE SECRETARY'S REPORT

Mrs. Friesen said in the past she was able to use the BEP office technician for mailings; however in June of 2002 BEP lost their office technician. The Assistant Program Manager, at that time, decided that she could handle all the mailings for CVPC. She will no longer have permission for the "G" drive. The "G" drive gave her access to pull mailing addresses in order to develop a mailing list and labels. Therefore she needs the Committee's help by getting their agenda items in as quickly as possible so she can get the mailing out on time.

In addition, she will not be able to mail hard copies to members on the subcommittees unless she already has their mailing address. She encouraged delegates, and their members, to request getting their information via e-mail.

Delegate Linker asked the Chair what support he provided Mrs. Friesen with trying to help her maintain access to the "G" drive. Chair Hatch said there needs to be an understanding from Mr. Xavier why this decision was made. Mr. Xavier said there is information security protocol within the Department and information sharing and information security has become high priority for the entire state. He clarified that CVPC has a folder on the G Drive and it could be made available to Mrs. Friesen on her "H" drive.

Delegate Maestas asked what the timeframe might be to get Mrs. Friesen set up with the security protocols. Mr. Xavier explained that Mrs. Friesen has her "H" drive, which is already secure. The "G"

drive folder is something that can happen rather quickly because it is just a matter of logistics.

Chair Hatch asked if Mrs. Friesen has complete control of the CVPC folder on the “G” drive. Mr. Xavier said she has as much control over it, as any other section would have over their folders. She can add and delete things. Mrs. Friesen said she does not have permission to add or delete things from that folder. Mr. Xavier said this is a permission issue and it can certainly be addressed. Permission can be restricted or expanded to the appropriate people. If the CVPC folder were to be used only for the mailings it is very possible to put the database there where she and the UP could access it.

DEPARTMENT REPORTS

Joe Xavier, Acting Program Manager provided the following report:

- a. Program Manager Vacancy Announcement – This position was upgraded to what is called the Staff Services Manager II.

Mrs. Friesen read the vacancy announcement for the Staff Services Manager II. Job description: “Under the general direction of the Deputy Director Specialized Services Division administers the statewide Business Enterprises Program for blind vendors; plans, organizes, and directs the establishment of vending facilities in federal, state, county, city, public, and private buildings; coordinates consumer advisory group activities and input as required by regulations pertaining to BEP; provides reports to departmental executive staff and to the legislature as required.”

Delegate Brown asked if the current hiring freeze has any bearing on this position. Mr. Xavier said it has a bearing but once a position has been advertised approval was secured to move forward.

Grievances, Hearings, and Arbitrations – There is one grievance that will be responded to within this coming week; there is one hearing that is pending at the Office of Administrative Law; and there are three arbitrations pending.

Chair Hatch asked what the three arbitrations were and Mr. Xavier said they are (1) Post Office in Long Beach, (2) San Clemente Navy; and (3) San Diego Navy. Chair Hatch said there is also a decision pending for the Royball (?) Federal Building in Los Angeles.

The hearing information can be found on the Office of Administrative Hearing's website.

- b. Financial Report – Mr. Xavier said the quarterly report list significant activities from each of the respective sections (northern, southern, new locations, selection committee, vending machines, and central office). There will be a brief description of significant occurrences in the quarter. He is looking at including location statistical information and a section on vendor statistics including interim locations. There will be selection committee statistics included in the report as well. Vice Chair Murphy said he would like to see some goals included in the quarterly reports. Chair Hatch said he would like to see a budget for the vendors so they can see the status of the Trust Fund during the year.

Delegate Linker said the Department used to give projected figures for the food calls for the cafeteria, snack stands, and vending; the report would then show what the goals should be for labor, expenses, etc. This gave the vendors a target to shoot for. He would like to see this occur once again.

Mr. Hanlon asked Mr. Xavier, that as he goes through this process, to write down on paper the step-by-step method so that when a new program manager is hired he/she will know exactly what occurred. Mr. Xavier noted that the Director is taking program issues very seriously. The fact that they have re-directed his position in order that he could sit as the Acting Program Manager shows they are serious. Re-directing his position had a triple effect on the resource demands for the Department. They have also re-directed another staff person to provide support to BEP. This is no small feat with today's budget issues and with all the Department faces.

Delegate Begian suggested that the Finance Committee come up with their recommendation of what they would like to see on the quarterly report. Chair Hatch said the way things should occur is that the Department does the work, and CVPC, as the advisory committee, evaluates and provides suggestions of that report to the Department.

Mr. Xavier said it is very important to identify the essential data elements that will truly provide an effective view of what is occurring. Data must be reliable, it must be validated, and it must be trustworthy.

Delegate Adams asked Mr. Xavier if he could provide the Committee with a list of available reports. Mr. Xavier said he does not have a list of available reports but he will look in to the amount of resources he might have available in order to achieve the requested list of reports.

Mr. Friesen noted that at the November meeting Steve Miller said he was filing an appeal on Lawrence Livermore. He asked if this appeal occurred. Mr. Xavier said, to the best of his knowledge, there is no appeal on Lawrence Livermore.

- c. Fund Balance Report as of June 30, 2007: The Trust Fund has 3 components; the operating fund, reserve for the workers compensation insurance, and the reserve for the liability deductible fund. Interest accrues to the three components of the fund.

The workers comp reserve is a hold on workers comp liability claims that will come at some future date. The liability deductible reserve is the same. The liability insurance is collected and then passed through for the liability insurance coverage of facilities. The fund is not paying for liability insurance, workers comp insurance, or those deductibles. The reserve carries over year-to-year. There has been some discussion as to the level of reserve under the workers compensation and whether an actuarial needs to be conducted because the reserve may be too high.

Mr. Maestas asked, with reference to the general fund, if there has been any funds added to the Trust Fund to accommodate the lack of funds, or, have any funds been taken out of the Trust Fund to accommodate another line on the P&L. Mr. Xavier said he is not aware of that occurring and general fund money would not go into this fund. Trust Fund money could not be used for anything other than the allowable expenditures.

Mr. Maestas asked if a bill incurred by the BEP or by the vendors could be paid from a different fund, i.e. the general fund instead of the Trust Fund. Mr. Xavier said he does not know that this has occurred or could occur. He said he knows a concern has been expressed that the Department has taken funds out of the Trust Fund to use for something else. There is no statutory authority to do so. How the Trust Fund money is used is prescribed in statute.

Delegate Adams asked Mr. Xavier if he could give him an idea of what the carry over funds in the workers comp and liability reserves are on a yearly basis and what the reserve is at the end of the year. The workers comp reserve is \$2,787,000 as of June 30, 2007.

Delegate Brown asked when was the last time an actuary was done and how often should they be done. Mr. Xavier said it has been somewhere within the last 7 years since an actuary was performed. He does not know how often an actuary should be done because a cost would be associated with an actuary audit and he is not certain who would pay for this service.

Delegate Maestas asked how the vendors are affected if a vendor does not pay his fees. Mr. Xavier cited the following: assume no one pays into the workers comp fund this coming year; the reserve will go down. If the reserve goes down to a point of danger an actuarial will want to increase the rates. So when the vendor fails to pay, ultimately the other vendors who are contributing to the fund will pick up that cost, whether by a rate increase or by using BFTF dollars.

Chair Hatch asked Mr. Xavier if he knows that money is not being moved from the operating fund over to the workers comp reserve. Mr. Xavier said on the projected budget there is a line item that he needs to take a hard look at because that may be the case but he is not sure now if the authority is there for that to be.

As of July 1, 2007 the administrative pro-rata that was being assessed against the fund will no longer occur.

Mr. Friesen asked if the RSA15 report has been completed, and if so, can the Committee get a copy. Mr. Xavier said it probably is completed and will be on his desk when he returns. If the Committee has gotten a copy in the past then it will receive the current one unless something has changed that he is not aware of.

Action Item: Mr. Xavier to send a copy of RSA15 report to the Committee.

Chair Hatch asked Mr. Xavier what he projects for the operating line item for next year. Mr. Xavier said very little, if not a negative.

The liability insurance deductible reserve balance is \$88,000.

The Current Fund Condition Report – This report identifies where the program is financially today. This report's numbers move everyday and CVPC should not look at these numbers solely as its decision base.

The concept of this report is to establish revenue projected for the year, establish all expenses for each of the respective line items, and then what the available dollars are. He will continue to provide this type of information, and recommend to whomever takes his place, that this be continued.

The columns on this report have the following headings: "Income", "Set-Aside Fees", "Current Fees", "Current Year Penalties", "Prior Year Fees", "Prior Year Penalties", "Total

Estimated Fees and Penalties”. Mr. Xavier reviewed the report and its figures as follows:

- Under the DOR 1308, which is the maintenance and repair, there is a number, which is very key. The number is \$700,000 plus dollars. The reason this number is key is because it represents each year the Department prepares “X” amount of contracts. For example, if a contract is written and made effective July 1 for \$100 then that money is encumbered. Money gets encumbered individually through every 1308 (service call, maintenance, repair, etc.) that is issued. The \$700,000 that is not encumbered in contract exceed the money available for the rest of the year which is the \$550,000 plus. Keep in mind that as expenses are incurred that number changes.
- In order to come down to the \$550,000 they needed to disencumber \$200,000. This means the ability to execute maintenance contracts must be reduced.
- All expenditures must be reduced because there is less than \$550,000 and there is still three months left in this fiscal year. Staff has been asked to identify any leeway where additional funds can be disencumbered for new purchases, for covering any 28’s, and for the overage incurred on the DO14 (committee travel and expenses).
- There are insufficient Trust Fund dollars to match. An example was cited as follows: Of the match funds at the end of the year that are not used \$100 was Trust Fund money. That \$100 carries over to the following year and is matched with the 87.7 percent and is available. Today’s discussion has no limitation of federal dollars available; it is a limitation of Trust Fund dollars available to match.

Vice Chair Murphy asked if an actuary is performed, and it is found that there is far more in the comp reserve than is needed, could that money be put into the operating portion of the Trust Fund. Mr. Xavier said his initial instinct would be “no”.

He has also checked with the former chief of accounting and her instinct was also “no”. The workers compensation was collected for a specific purpose and he would not have the authority to re-direct that money into something else. Collecting fees under the auspices of workers comp and then using it for operations would have the appearance of a double fee. He will be posing this question to the legal department.

Vice Chair Murphy asked if the interest on the workers compensation section of the Trust Fund might be used in the operating section of the Trust Fund. Mr. Xavier said on the fund balance sheet there is a line item for interest. The amount of interest for the workers comp was \$78,000 for FY06-07. He does not know if he has authority to re-direct that money. Delegate Adams said this would not follow a generally accepted accounting principal.

Mr. Friesen asked Mr. Xavier if the money was taken out of the operating budget for those vendors who were not paying their workers comp. Mr. Xavier said it was not.

Chair Hatch said over the last three to five years the Trust Fund has been getting in worse shape. He asked Mr. Xavier if he has been able to come to any conclusions of what the Trust Fund will look like next year and what would be the most effective steps to take to start to reverse the trend. Mr. Xavier said he will answer this question later in his presentation.

- Discretionary spending will have to be halted.
- d. Projected Budget for FY 08-09 – Mr. Xavier said the objective, beginning July 1, 2008, is for BEP management, BEP staff, CVPC, and vendors that want to know the figures that they will have access to how much revenue is projected and where every dollar is planned to be expended. This budget lays out all the known expenditures for BEP, as well as a 10 percent reserve to accommodate the unknowns. One of those unknowns, of course, is projecting revenue. If revenue goes down the 10 percent reserve will allow some of it to be absorbed before cuts have to be made.

- e. If the program finds something that it wants to fund throughout the year it needs to be budgeted. An expense cannot be picked up unless there is a decrease in a line item. A new project will be funded from the pencil on the paper to the last spoon that is necessary for it to be functional. There will be no other funds appropriated for that project other than what is in the line item.
- f. The decision to use the reserve will have to be on a case-by-case basis. One of the factors will be the time of year; making a decision to use the reserve in May or June is very different than in July or August.
- g. Built into the projection is a percentage for increase in costs to health insurance.

Mr. Xavier asked the Committee to review the report to be sure that all line items are accounted for and if they see a line item that has not been identified to let him know as soon as possible.

Vice Chair Murphy asked if it is built into the budget for the Department to audit facilities that are not paying fees. Mr. Xavier said it would depend on who would conduct the audit. If BEP's internal audit section were to perform the audit then it would obviously be built into another section. This is a resource allocation issue. Vice Chair Murphy said if facilities were audited it would be a revenue enhancement tool.

- h. Each line item was reviewed with the Committee. The current fee projected for FY 08-09 is \$1,275,000. If this number goes up the Program has money, if it goes down there will be cuts. The projected revenue is \$1,451,393. This is money available for operations and does not include match. The projected expenditure is \$709,000; 48.5 percent of the revenue collected will go to this line item.

Mr. Friesen said last year the Department increased the amount of the portion paid by the vendors for health insurance. Earlier it was stated that an increase had already been figured in the percentage for next year. He asked why Mr. Xavier did not include, at least a breakeven where it was not increasing. Mr. Xavier said he

understands there was an increase and the premium was paid directly by the vendor. That increase was anticipated to reduce a liability to the Trust Fund. Unfortunately, that increase either fell short or barely exceeded the increase that occurred in the insurance this year. The projection moving forward takes into account what has already occurred in terms of the increase the vendor is paying and also states it is going to go up “x” amount percent again. To decrease the amount the Trust Fund is liable for there would have to be an additional increase by what the vendor pays.

- i. Mr. Xavier said he now questions whether the \$47,000 (accounts receivable for workman’s comp) can be budgeted as a line item. He will be looking at this issue.
- j. The expenses for the non-matchable is \$756,000 or 52.9 percent.

ADJOURNMENT

MOTION 2008.017. Moved to adjourn for the day at 5:02 p.m. on Thursday, March 27, 2008.

Moved: Delegate Linker
Seconded: Delegate Maestas
Vote: Passed Unanimously
Absent: Delegate Collins