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**CALIFORNIA VENDORS  
POLICY COMMITTEE  
(CVPC)**

**Meeting Minutes  
March 28, 2008**

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## CALIFORNIA VENDORS POLICY COMMITTEE Meeting Minutes

Meeting commenced at 8:30 am, Friday, March 28, 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 8:30 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.

Delegates in Attendance:

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

District 4	Andy Brown	Facility 342, Resources Snack Bar and interim Department of Justice Sacramento, CA
District 5	Michael Hatch	Corcoran State Prison
District 6	Scott Schamber, Absent at time of roll call	Delano State Prison, Delano, CA
District 7	Harry Begian	Cal Trans Los Angeles, California
District 8	Jack Bedikian Absent at time of roll call (arrived at 9:00 a.m.)	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**, Acting Program Manager  
**Dave Norris**, SBEC Southern Region  
**Ken Okin**, BEC San Diego Office  
**Marilyn Harder Allen**, BEC San Diego Office  
**Janis Friesen** - CVPC Executive Secretary  
**Toni Stratton** - CVPC Recording Secretary

## Guests and BEP Vendors:

**Sandy Brown**

**John Friesen** - retired BEP vendor Sacramento

**Roy Harmon** - BEP Vendor

**Craig Kinder** - BEP Vendor

**Laura Kinder** - BEP Vendor's spouse

**James Pappas** - BEP Vendor, Imperial Valley

**Sandy Brown** - BEP Vendor's spouse

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Delegate Linker said over the past three years there have been rumors that he has not submitted P&L's or payments of P&L's. He asked Mr. Xavier if he had received this information from him. Mr. Xavier said he has not been able to look at individual vendor information.

**Action Item:** Delegate Linker asked Mr. Xavier to look into this matter and report his findings to Chair Hatch.

### **Department Reports (continued from March 27)**

Mr. Xavier said there were questions yesterday regarding the built-in increase for health insurance coverage. The actual increase was 7.55 percent and was built into the \$709,000. This increase is based on the year over year average for the past five years.

Chair Hatch asked if there is any built in increase to the vendors in that formula. Mr. Xavier said there is not. It is based on the increases that have occurred year after year over the past five years.

Delegate Linker noted that the Committee, at its November meeting, suggested that the vendors pay more for health insurance. Delegate Began said the vendors' health premium increase was about 18 percent over what it used to pay last year.

Chair Hatch said this issue should be referred to the Benefit Subcommittee to review, and possibly, that subcommittee could bring

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back a motion if they find it necessary. He believes that sometimes the Department is making a mistake when it makes a determination what to do with vendors based on what happens with the state workers. BEP's financial situation has nothing to do with what percentage a state worker pays.

Mr. Xavier reviewed the line items of the projected budget for 2008-2009 and depicted the following:

- a. Matchable expenses – The total set-aside fees for federal match is 78.7 percent.
- b. Only the projects that are funded can move forward. One of the problems that will be faced this year is that projects that have already been committed need to be fully funded before any new projects can be picked up. If there is no revenue to fund projects then those projects will not be entertained. There are consequences regarding projects that may be on the board and cannot be funded. These issues must be addressed.

Vice Chair Murphy mentioned that the state agencies, including CalTrans must understand the budget constrictions. Mr. Xavier said there is the issue of having committed to CalTrans for the Marysville project, and the question then becomes if funding was an issue, why the commitment got to this point. The 1120 N Street CalTrans location has been partially funded. The small components have not been funded for this project and they must be funded as a new project for the coming year. This was a concern of CalTrans because they were releasing RFPs and contracts to modify space. The Marysville project is still on the board and how we proceed is yet to be determined and it is a serious concern.

Delegate Began suggested that any future cafeteria contracts should have an option to lease space out, for example, to Starbucks, Mrs. Fields Cookies, etc. Using the example of CalTrans, why couldn't a company purchase their equipment

and provide a commission to the program. Mr. Xavier said there is not authority in statute to contract manual food services.

**Action Item:** Delegate Begian asked Mr. Xavier to research this option.

- c. If a facility is slated to be remodeled or renovated it must be identified and budgeted in order to appropriately fund it.
- d. There are provisions to increase a contract, if necessary, but there are limitations on how it can be increased as well as the dollar amount it can be increased by. He warned that we must be very careful when reducing line items beyond what is already going to be encumbered through contracts.
- e. A question was raised at yesterday's meeting inquiring how arbitrations are funded. He does not see arbitrations on the schedule and he will find out why they are not included and how they are funded. Chair Hatch asked if a vendor is limited by funds available to have a full evidentiary hearing. Mr. Xavier said the full evidentiary hearing is provided for in the regulations and therefore the Department does not have the discretion not to provide a hearing. What will occur is that another line item will have to be cut.

Mrs. Friesen read the totals for each category on the Projected Income Statement as follows:

Fees = \$1,451,393  
Insurances, liability, and workers comp = \$756,000  
Trust Fund = \$695,393  
Match = \$2,569,362  
*Total = \$3,264,755*  
Minus 10% reserve = \$326,475  
**TOTAL PROJECTED EXPENSES: \$2,937,500**

If the reserve is not needed there will be a carry-over of \$780.28.

- f. Mr. Xavier said it is important to keep the distinction between general fund that is used to match and trust fund that is used to match. The two are not the same. All staff fall under general fund and the other expenditures he described earlier falls under the trust fund.
- g. The BEP Location Expenditures and Set-Aside Funds Revenues for 2007 were disseminated to members present. This report does not identify individuals because it would be inappropriate. This report is a basis of decision making that is supported by data. Mr. Xavier reviewed the report.

Chair Hatch said the figures on the report are skewed because the insurance premium fees are not included in the figures. Mr. Xavier said this report was assembled quickly in order to present it to this Committee and he cautioned the members not react to it. There are a number of variables, such as, the length of time the location may or may not have been in operation, were all of the appropriate fees remitted, etc. This is a global snapshot.

- h. Nine of the 25 cafeterias contributed less revenue than expenditures. Two cafeterias incurred in excess of \$100,000 (each) in expenditures. Two cafeterias account for 45 percent of the expenditures related to cafeterias statewide. One of 8 dry vending contributed less revenue than expenditures. Eighteen of 36 snack bars contributed less revenue than expenditures. Two of 36 account for 30 percent of the snack bar expenditures. Twelve of 46 vending machines contributed less revenue than expenditures. Sixteen of 35 wet vending contributed less revenue than expenditures. Three wet vending account for an excess of 42 percent of the expenditures.

This report is something he could use as a management tool to review the locations and see how they are doing.

There are two things that can be done to improve the health of the trust fund, and under those two categories there may be

hundreds. The two things are (1) increase revenue and (2) decrease expenditures. Resources are limited and discussions will need to occur in order to come up with ways that will truly improve the health of the trust fund.

Mr. Xavier said he personally would like to see an itemization of all the ways to increase revenue. One of the concerns he has is if a facility is not profitable on its own, how would merging it with something else make it profitable. Discussion points are: What are the components that should be considered to make it profitable? Does it make sense to have a facility in San Diego and a facility in Sacramento as an enterprise? Does it make sense to continue a drain on the trust fund when the net return is either negligible or non-existent? Does it make sense to have an enterprise when a vendor is realizing marginal increase in their revenue? What should be done with the poor performing locations?

Mr. Xavier said poor performing locations are the biggest issue the program faces because where there is a poor performing location there may also be poor customer relations, poor building relations, etc. He recommended developing a comprehensive policy and approach on poor performing locations.

Chair Hatch said he believes it is valuable to look at other states that are financially successful. He asked Mr. Xavier his thoughts on increasing vending machine commissions, shifting the burden for that \$700,000 a year from the trust fund over to the vending machine fund, thus freeing up \$700,000 in the year projected income.

Mr. Xavier said there is in excess of 450 contracts collecting approximately one half million dollars to the vending machine trust fund. The liability to the trust fund for health insurance is \$709,000. To transfer that liability to insurance without a loss of the fund to the retirement would require, at a minimum, an increase of \$709,000. To use the vending machine trust fund

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for health insurance requires a vote of the vendors. He has two staff, plus part of Ms. Fleming's time working on vending machine commissions. Again, it is a resource allocation – what is the return on the investment on how they spend their time.

He would like to look further into the Texas model. Texas has 28 contracts for the entire state of Texas for vending machine commissions. California has 450 and is growing. As a basis for discussion he asked: "Could we have a countywide contract for all contracted vending machines."

Chair Hatch asked if anything significant is being done to fix the system to collect vending machine commissions; (1) to streamline it; and (2) to increase the commissions. Mr. Xavier said this is not an area where he has spent his time. The Committee should expect that the Department will identify what actions can be taken that will have the most impact in the shortest amount of time. It will need to be determined how to appropriate the resources to support it. Before this decision is made there needs to be a discussion of where we can go down the list and identify all the possible actions because this is one of many. Mr. Friesen said much of this discussion should occur in the subcommittees.

**Action Item:** Mr. Friesen suggested writing the Director of Rehabilitation thanking him for directing Mr. Xavier to this program and to encourage him to extend Mr. Xavier's time in working with BEP.

- I. Actions are being processed for fees and failure to submit MORs.
- J. As a result of the restrictions of use of general fund the Department staff has been directed to minimize travel extensively. He asked the delegates to keep in mind that staff's travel has been, and will continue to be restricted, at a minimum for the balance of this year.

## COMMITTEE REPORTS

Mrs. Friesen said Mr. Harmon e-mailed her the timeline for the retirement. The conversion effective date is June 1, 2008 and the asset transfer date is June 2, 2008. The cut-off date for being able to access individual accounts is May 22, 2008. They anticipate activating IBR and participant internet for all transactions on June 13; June 14 deliver retirement workbooks to client; employee education meetings start June 14 (on-site video and/or web). The minutes indicate that black out notices will be sent to participants on April 23 and DOR agreed to provide the document that included this information to vendor and CVPC representatives by one week from today. There was a motion to regularly schedule pension plan committee meetings and to provide one week notice. The next meeting is tentatively scheduled for April 21.

### Grievance

- a. Chair Hatch noted that Mr. Xavier had reviewed the status of the grievances at yesterday's meeting.

He mentioned that one of the grievances is for an administrative review that he filed due to the fact that a waiver had been given to the State Lottery Building in Sacramento. The four questions he asked (1) Does BEP consider building a sandwich shop a violation of the waiver granted; (2) what action, if any, is BEP planning to bring against the Lottery; (3) BEP has a vendor assigned at this facility and is there any hope for the Lottery or Subway to subsidize BEP its loss of revenue; and (4) BEP usually requires 30 days cancellation clauses in their contracts. Can existing waivers be cancelled under those conditions?

Vice Chair Murphy said he would like the Administrative Review to ask for any funds that this Sub-Sandwich location is forwarding to the Lottery building to go to the vendor operating the vending machines.

Mr. Hanlon asked how many waivers are there in existence at this time and the details of each. Mr. Xavier said a high priority for the Director is to establish a better tracking system for the waivers.

**Action Item:** Mr. Xavier will research the waiver tracking and their details and report back to the QLDC. Mrs. Friesen also requested that on the Profile 1 Change Form that the date that the interim starts and when the expiration date of the interim be included. Mr. Xavier said he will look into this issue and see if there is a mechanism that is more palatable.

## Fiscal

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**MOTION 2008.018.** Moved to accept Steve Adams as Chairperson for the CVPC Fiscal subcommittee.

**Moved:** Delegate Brown  
**Seconded:** Delegate Linker  
**Vote:** Passed Unanimously  
**Absent:** Delegate Collins

- a. Delegate Adams said at an earlier meeting the Committee had asked for information regarding all facilities in the program. He requested the same information as is on the monthly operating reporting, i.e., sales, payroll, labor, etc. over the last six months be provided.

**Action Item:** Mr. Xavier will look into providing this report to the Finance Committee.

- b. Vice Chair Murphy asked if the Fiscal Committee could add or make recommendations on fields to add to the report. Delegate Adams agreed that the Fiscal Committee should put the report into a format where it can be used to make good business decisions.
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## Rules

- a. Status of BEP Regulations. Mr. Begian made the following motion.

**MOTION 2008.019.** Moved to that the CVPC approve the following position on Proposed BEP Regulations Sections 7213 through 7227.2 and 7217. CVPC further requests the Executive Committee to provide these positions in writing and/or in person for the intent of public comment for the BEP Regulatory hearing dated April 29, 2008.

**Moved:** Delegate Begian  
**Seconded:** Delegate Linker  
**Vote:** Passed Unanimously  
**Absent:** Delegate Collins

- b. The subcommittees recommendations are:

### General Comments

Article 7. Standards for the Establishment and Operation of Vending Facilities

#### § 7216. Establishing a New Vending Facility.

(c) The Department shall seek to establish a new vending facility on federal, state or other property only if the Department first determines that a vending facility is feasible. The Department ~~may~~ **shall** consult with the California Vendors Policy Committee, herein CVPC, when evaluating whether a vending facility is feasible.

**Rational:** Change may to shall. Both Federal and State Law intent mandates CVPC's active participation in establishing facilities. Welfare & I Code 19631 states:

The department shall not cause or permit the establishment or placement of any blind vendor in a vending facility unless the director, in consultation with the committee of licensed blind vendors, first determines that the facility produces, or is likely to produce within a reasonable time, an adequate net income for a blind vendor.

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**7216. (e) Any decision that the placement or operation of a vending facility is not feasible, or that placement or operation would adversely affect the interests of the state shall be in writing, only the Director or Chief Deputy Director may sign this agreement, and a copy shall be made available forwarded to the California Vendors Policy Committee, hereafter CVPC. The Chairperson of CVPC shall co-sign for receipt of deliverance of this agreement and return it to the Department. Where the placement or operation of a vending facility is not feasible, the Department shall not issue a waiver permanently exempting the site or location from the priority established by the Randolph-Sheppard Act (20 USC 107 et seq.).**

1. The Department shall establish and maintain a chronological list of waivers issued, with the date of termination for each waiver.
  2. Waivers may only be issued for a period of 3 years or less.
  3. Issuance or renew of a waiver shall only take place after CVPC has received a written copy at least 30 days prior to the granting of the waiver.
  4. At a minimum waiver shall contain the following:
    - (a) Address, location or area including square footage, employee/customer population and normal hours of operation.
    - (b) Issuance timeframe, terms and conditions.
    - (c) The agency requesting a waiver shall provide a copy of all contracts pertaining to the space waived by the Department.
    - (d) For the purpose of approval and future evaluation by the Business Enterprises Program, the following financial information must be submitted quarterly to DOR. The financial information shall include but not be limited to:
      1. Total gross dollar sales.
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2. Total dollar sales tax.
3. Total dollar or percentage cost of goods sold.
4. Total dollar or percentage cost of labor.
5. Total dollar or percentage cost of any miscellaneous items
6. Total dollar amount for net income.

**Rational:** The blind have over a 70% unemployment rate. The BEP priority on Federal and State properties has been granted to the blind to provide economic remunerative opportunities. The waiver of this priority, should, not be granted unless the placement of a blind person would adversely affect the interests of the State. BEP has proven to have lost waivers, had them issued without regard to the length of time or to place any conditions to bring them to an end. The BEP has the responsibility of maintaining accurate recordkeeping. Priority granted W & I Code 19625. Existing policy were receipt of this information is verified by the attached document called attachment 1.

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**7216. (g)** When establishing a new vending facility, the BEP, ~~in consultation with the contracting agency,~~ shall determine what type of vending facility, as defined in section 7211(a)(54) of these regulations, shall be established on the property.

**Rational:** In consultation with the contracting agency should be removed. Both Federal and State Law require the director to make this determination. As found in W & I code:

W & I code 19627 (d) The director is authorized, subject to regulations developed pursuant to subdivision (a) and the requirements of the federal Randolph-Sheppard Act, to select a location for a facility and the type of facility to be provided.

If an agency is allowed to redirect the guidelines set forth by BEP, it could ultimately set up a facility for failure. Agencies have the

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right to challenge our programs guidelines though an arbitration process found in Welfare and I code:

19627 (i) If the director determines that any agency or department of the state fails to comply with this section, the director shall establish a panel to arbitrate the dispute and the decision of the panel shall be final and binding on all parties.

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**7216. (i)** After the establishment of a vending facility, the BEP Manager may re-evaluate the income and expenses of the vending facility and approve a change in the type of vending facility in consultation with the contracting agency **and CVPC**.

**Rational:** The consultation process should include CVPC prior to any commitment to a contracting agency. CVPC has the right to be in this consultation process as shown in previous testimony for establishing facilities.

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**§ 7216.2.** Vending Facility Closure.

(b) The decision to close a vending facility shall be made by the BEP Manager, with the active participation of the California Vendors Policy Committee, hereafter CVPC, considering factors specified in subsection (a) of this section and whether the site is feasible in accordance with Section 7216(c) of these regulations **after making every effort to install vending machines.**

**Rational:** CVPC wishes to insert regulatory language that would assure BEP efforts to place vending machines whenever possible when facilities are closed.

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**§ 7220.7.** Vendor Incapacitated or Deceased

**(a)** If a vendor becomes incapacitated and is unable to operate his or her vending facility, or supervise a manager at his or her vending facility, the Department may place the facility into interim operation consistent with section 7215 of these regulations and

select a licensee or vendor to operate the interim vending facility for a period of six months. **The incapacitated vendor shall be allowed to keep their BEP group health insurance for a one-year period.**

**Rational:** Licensed blind vendors, whom become incapacitated while operating a facility, will probably need to keep their existing health care provider to receive continued treatment in the restoration of their health. Cancer victims, stroke, or accident victims would be harmed, if made to change their treatment

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**7226.2. Special Elections.**

- (a) If a delegate vacancy occurs, a special election shall be completed within 60 days of the vacancy to determine the successor for the remainder of the term. A special election shall be conducted, if any of the following situations occur:
  - (3) ~~A delegate, or his or her alternate, fails to attend two regularly meetings per term. Regular meeting shall consist of two one day sessions. Attendance means participation in both days. A delegate has been removed for any violations of the CVPC Bylaws.~~

**Rational:** Previous regulatory language referred to only one type of violation of the CVPC bylaws. CVPC believes their bylaws should not be quoted in regulations. The Bylaws of CVPC, and the will of the majority of vendors, should set forth the conditions for removing their representatives.

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**§ 7227. General Provisions.**

- (a) Any Business Enterprises Program for the Blind, hereafter BEP, licensee or vendor, who is dissatisfied with any action or inaction of the Department arising from licensing, selection as a vendor, termination or suspension of a license or vendor operating agreement, probation, or administration of the BEP shall have an opportunity for a prompt informal administrative review by the

supervisory staff of BEP and/or a full evidentiary hearing before a hearing officer in accordance with the provisions of Sections 7227.1 and 7227.2 of these regulations.

**Rational:** Add the words or inaction. John Westbrook, Program Manager denied a blind vendor the opportunity for his due process because, by not taking the action requested by the blind vendor, he did not consider it an action. If the State were allowed to take this position, it would not allow for vendors to file complaints of staff not doing their duties.

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§ 7227. General Provisions.

~~(f) The CVPC may contract for professional services for training vendors in the preparation and submission of requests for review and hearings for all of the processes specified in subsection (a) herein, using vending machine income pursuant to Welfare and Institutions Code section 19630, subsections (d) and (g), and section 7225, subsection (b)(2) herein.~~

(f) The Department shall provide training in the preparation and submission of requests for review and hearings for all of the processes specified in (a) to the Grievance Subcommittee of the CVPC biannually. The CVPC may contract with a private attorney, or other knowledgeable persons, for the provision of additional training regarding these processes using vending machine income pursuant to Section 19630, Welfare and Institutions Code. When requested by a licensee/vendor, the CVPC and the Grievance Subcommittee shall:

**Rational:** Changing the funding source for CVPC's initial grievance procedural training, would cause a loss of Federal matching funds now used for this purpose. Both Federal and State Law declare that funds used for the purposes of the CVPC will be federally matched. Reference W & I Code 19629. If the Department of Rehabilitation does not wish to supply this training, CVPC believes they could contract with the Office of Administrative Law, as they have done in the past.

Vice Chair Murphy asked if the Department is making substantive changes after the subcommittee gives them the regulation package. Mr. Friesen said there was specific suggestions given to the Department through a CVPC motion. The response to the motion basically said they were working with CVPC but it did not answer the question of whether they would accept CVPC's proposals prior to sending it to Agency.

The motion from the May CVPC meeting was read into the record: "We disagree with Section 7220e where vendors are required to purchase liability insurance from the agent identified by the Department. We question the legality of this regulation. This may possibly violate the Sherman Clayton and Unfair Practices Acts. This also might be challenged by Federal Anti-Trust Laws." Mr. Friesen suggested that this be put into the public comment.

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- c. Delegate Begian said he would like to allow the CVPC Executive Committee to speak on behalf of CVPC at the Public Hearing for the proposed BEP Regulations Sections 7213 through 7227.2 and 7217 either in writing or in person. After some discussion the following motion was made.

**MOTION 2008.020.** CVPC grants the authority to the CVPC Executive Committee after consultation with the CVPC Rules subcommittee to represent in person or by correspondence the CVPC's position or believe stance for the Proposed BEP Regulations Sections 7213 through 7227.2 and 7217 until the next CVPC regular meeting.

**Moved:** Delegate Begian  
**Seconded:** Delegate Linker  
**Vote:** Passed Unanimously  
**Absent:** Delegate Collins

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- c. Delegate Begian said he wrote a letter to the Department requesting them to provide the date the DOD regulations will
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be submitted to the Rules Subcommittee for review and active participation. Mrs. Friesen read an e-mail she had received from Mr. Candela requesting that she forward the timeline for the DOD regulations. The timeline did not provide enough time for the Rules Subcommittee to respond. Delegate Begian responded, in writing, to Luciana Profaca. Mrs. Friesen read the letter to the members present.

**MOTION 2008.000** . Moved that the CVPC is requesting from the Department to provide the dates the DOD Regulations will be submitted to the Rules Subcommittee for review and active participation.

**Moved:** Delegate Begian

**Seconded:** Delegate Linker

Delegate Begian withdrew his motion because he believes that the Subcommittee's position was clear in the letter he sent to the Department. Motion is dead.

- e. BEP Strategic Plan - Delegate Begian provided the following recommended action and motion:

**MOTION 2008.021**. Moved that the CVPC approves the following: The chair of CVPC invites all the Subcommittees and Delegates to review the Strategic plan. Every Subcommittee according to their expertise can recommend plans and issues that will improve, enhance and provide better control for the future of this program. The Delegates can recommend any plan or issue that they are interested which will bring more prosperity and control to the future of this program. The Subcommittees and the Delegates are requested to forward their recommendations to the Rules Subcommittee by May 1, 2008.

**Moved:** Delegate Begian

**Seconded:** Delegate Linker

**Vote:** Passed Unanimously

**Absent:** Delegate Collins

**MOTION 2008.022.** Moved that the CVPC approves and will forward the attached “ Internal guidelines for true active participation” proposal to the Department for their approval. The CVPC is requesting the Chair to ask the Department in writing for a Memorandum of Understanding to confirm their total commitment to this proposal.

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

Mrs. Friesen read the draft proposal Rules Subcommittee Internal Process Guidelines for Active Participation. The proposal is intended to guarantee cooperation between the vendor community and BEP, achieve common goals in a timely manner, and produce results that are satisfactory and acceptable to all parties.

Rational: Article 1: In accordance with the Bylaws all issues for consideration of the CVPC shall go through subcommittee prior to being placed on the agenda unless three quarters of the CVPC delegates in attendance at a meeting vote to include the item on the agenda. The purpose and the benefit of this process is the following: at its meeting CVPC cannot always afford the time required to make appropriate decisions on important issues that require detailed work, correct information, and effective participation from the Department. When accurate and necessary information is not available for CVPC delegates to make a proper decision about an issue that has not been worked on and reviewed by a subcommittee, discussion are often non-productive. Additionally, without knowledge of the Department’s position on an issue, if the CVPC comes up with a decision there is no guarantee that the Department will agree and make a firm commitment. Subcommittees can meet as many times as necessary and work hand-in-hand in detail with authorized liaisons of the Department, come up with its results, and a commitment from the Department in a short time and bring their completed work to the CVPC for final approval.

Article 2: Issues presented to CVPC by the Department. According to 34 Code of Federal Regulations Part 395.B1 the Department must comply with the following: The state committee of blind vendors shall: (1) actively participate with the state licensing agency and major administrative decisions and policy and program development decisions affective the overall administration of the state vending facility program. These issues must be forwarded to the CVPC in their early stages with sufficient time for review and the following information: (a) Department's clear position about the issue; (b) rule of law and legal concerns. This will allow the CVPC and the Department to work together on an issue from beginning to end with a clear understanding of each other's positions. Cooperation will prevent unnecessary and useless arguments, save time, and resolve most differences. Once issues are resolved the results will be acceptable to both sides and not be challenged.

Article 3: Subcommittee structure. Besides the Chairperson and members of the subcommittee, each subcommittee must have at its disposal the BEP Program Manager or his or her designee. These representatives must be informed, authorized to engage in negotiations and knowledgeable about the Department's position on issues being discussed in the subcommittee. The representatives of the Department should preferably be from the units of the Department whose expertise is related to the subcommittee's responsibilities. For example, the finance subcommittee might have a representative from the accounting office; the rules subcommittee from the legal unit; and so on. These representatives must be present and effectively participate in each subcommittee meeting. In addition, it will be permissible for the subcommittee to engage in some preliminary prep work without the Department's presence.

Article 4: The recommendation process. Subcommittees must work in detail and hand-in-hand with the Department representatives. Upon completion of each project the Chair of the Subcommittee sends a copy of the agreed project with complete information to all CVPC delegates with enough time for their review and input. The draft of each project finalized in the subcommittee must be endorsed by the chair of the committee and the program manager, or his or her

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designee who participated in the process in order to confirm the Department's clear understanding of the issues and commitment to the project. This endorsement will also mean that both the subcommittee and the Department representatives are requesting the CVPC and the Department to approve the project. Completed projects from subcommittees will be presented to CVPC in the following formats: (a) completed project agree. This means that the project has been agreed upon by the CVPC which has given its total consent and the Department is in complete agreement with the terms and the content of the project. In this situation the subcommittee will present the completed project to the CVPC in the presence of one or more of the authorized representatives who participated in the subcommittee meetings.

The presence of departmental representative is important for two reasons: (a) to reiterate the understanding of the issue and their commitment to the project; (b) to respond and clarify any issues or concerns that the CVPC delegates may have. When the project is approved the CVPC, in agreement with the Department, will negotiate a commencement date for the implementation of the project. The approved project will be submitted to the Department through a motion by the majority vote of the delegates; (b) completed project compromised. This means that the subcommittee and the representatives of the Department cannot agree on some of the issues of the project. Under these circumstances the subcommittee will table that specific project until the next subcommittee meeting and in the meantime the Chair of the subcommittee can consult with the Executive Committee and other delegates and the Department's representatives will be able to consult with the Department in order to find an acceptable solution to resolve the differences.

In each step of the negotiations, full information will be provided to the Executive Committee and all delegates for their input. The subcommittee will meet as many times as possible until all avenues have been exhausted and an agreement acceptable to the CVPC and the Department has been reached. The final and complete project will be presented to the CVPC in the presence of the authorized representatives of the Department. The CVPC will have the choice to

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approve, reject, or send back the project to the subcommittee for changes; (c) incomplete resolution; not agreed. This means that after trying many times unsuccessfully the subcommittee and the representatives of the Department could not reach an agreement. The subcommittee chair will present the project to CVPC for further instructions.

Vice Chair Murphy asked the Committee to hear a motion that is not on the agenda because it is somewhat of an emergency item. He explained that Mrs. Friesen had to make an emergency purchase for the Committee's benefit. The following is the motion by Vice Chair Murphy:

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**MOTION 2008.023.** Motion that CVPC will refund Janis Friesen \$986.89 for the purchase of the HP laptop computer that she purchased for CVPC business. Said HP laptop will be the property of the CVPC and will be used for CVPC business.

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

(This motion in accordance with the Bylaws required a 2/3 vote to be heard) (Vote to hear the motion carried unanimously.)

Chair Hatch noted that Mrs. Friesen has been using her own laptop for CVPC business. Her laptop computer crashed. This motion would not be to purchase a personal computer for Mrs. Friesen but to purchase a computer for CVPC for the Executive Secretary to use. There is also a potential of \$230 worth of rebates that is not included in the purchase price of \$986.89.

Chair Hatch suggested, because of the travel constraints imposed by the Department that the Committee consider having future meetings in Sacramento until the State's economic crisis is over. It was the

general consensus of the members present to take this issue meeting-by-meeting.

Delegate Linker suggested writing a letter to the Director expressing dissatisfaction with the inadequate communication of the deputy director. Delegate Maestas said he agrees with the letter but that he believes the letter should be addressed to the deputy director with a copy to the director.

**Action Item:** After much discussion it was decided to have the Executive Committee draft and send a letter to the director stating CVPC's appreciation for the allocation of resources and then a separate letter to the director addressing some of the concerns CVPC has with communications between it and the deputy director.

#### 4. Training

- a. Report on training class. Delegate Maestas said he was able to travel with vendors to Sacramento to work with the training class in these areas: (1) prison vending; (2) hands-on vending machine training. He recommended to the committee to continue the hands-on vending machine training and to work with Bill Shirah on standardization of training classes. Mr. Xavier said there will need to be consideration in the appropriateness of the trainees serving as employees for vendors before Delegate Maestas' recommendation goes forward.

Delegate Begian asked Delegate Maestas to have the training subcommittee look into an avenue for existing vendors to receive training in computer technology.

#### 5. Benefits

- a. BEP Retirement Plan – Delegate Brown said he sent a letter to Mr. Candela requesting that a letter go out to vendors to let them know what was occurring with the BEP retirement plan.

Mr. Candela's response: ". . . To summarize, we have made progress in the transition of the vendors' pension fund. Currently the fund is with Great West and we anticipate the transition to occur in late spring. When it does there will be a one week black out period as Prudential receives and verifies it has completely and accurately absorbed all funds for each vendor into its account. Then vendors will be contacted as part of Prudential's education and communication offerings and invited to change their portfolios as they see fit. We hope that the pension fund will be in a better financial shape due to the transition to Prudential. This was the goal of the new contract award and it looks quite promising at this juncture. Please be advised that we are unable to do a mass mailing to the current pension members as their contact information is not currently kept at DOR but with the Great West trustee, Wells Fargo."

Chair Hatch said it is unconscionable that vendors who were under the impression that their funds were going to be transferred in March to Union Bank still are not aware of the fact that this has changed. He questions the idea that the Department, who is ultimately in charge of overseeing this retirement plan, does not have the contact information for all the plan participants.

BEP Life Insurance – Delegate Brown said everyone should be receiving a letter providing options for life insurance since the trust fund can no longer pay for it. One option is to waive their life insurance and the other would be for the vendor to pay for the premium. The subcommittee is still waiting for information from Jeff Dierks at the Office of Risk and Insurance Management in order to provide a third option.

Mr. Xavier said the issue is that the life insurance has to be a single billing point in order to constitute group rates. The options must be clarified before a letter can be sent to the vendors for a vote of what the funding vehicle is. The reality is, that in order to achieve a single paying point, it will have to be collected through some thing. One of the options was to collect

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it through the company who was currently billing for the additional optional coverage. Mr. Xavier said he has not been privy to the timing of when the trust fund will stop using funds for the life insurance but if it continues, then on July 1, 2008 it will have to be budgeted.

Mr. Friesen suggested referring this back to the subcommittee to do more research in citing the authority.

## 6. Quality Location Development

- a. Renovation plans for existing SRRA facilities. Vice Chair Murphy said the subcommittee has been informed that there will be three facilities to be developed. One is Camp Roberts, one is Shandon, and the third is Gaviota. Gaviota was developed without BEP's input but they are willing to put in six vending machines on each side of the road. BEP was involved with both Camp Roberts and Shandon facilities; however BEP was not able to get to Camp Roberts in time so it is working to retroactively put in a kiosk.

**Action Item:** Chair Hatch said he has been told that Gaviota will be circulated before the end of this fiscal year for vendor selection. He asked Mr. Xavier to verify this information.

- b. Discussion California State Universities/Federal Prisons – Delegate Murphy said Joanne Fleming, in consultation with QLDC, has written to her contact at the federal prisons to help facilitate getting all federal prisons in line with Randolph Sheppard in California. In regards to airports, Ms. Fleming is moving forward on getting TSA locations. There is a large facility at the Tijuana border area where more vending machines can be added. Ms. Fleming has approval from the location to put five vending machines in the area where people who cross the border on foot would have access.

Mr. Xavier said prioritizations will have to be set and it is critical that projects support the health of the trust fund.

The subcommittee's recommendation to Ms. Fleming was to circulate the Tijuana vending machines by letting a vendor know if he/she wants the site they will either have to lease their own machines or borrow machines from other areas.

There are several prisons, Soledad, Salinas, and Chowchilla that are not being operated by blind vendors. They have been under contract and have not been paying the vending machine unit what they should be.

The courthouses – there are 450 locations and there is a commitment on the part of the state that all jury rooms be a priority of the program.

Discussions regarding colleges and universities have been placed on the back burner for now.

Chair Hatch said in the very near future there will be no vending machines to be used by federal inmates in federal prisons. When the program thinks about taking those facilities over and placing vendors in there it may want to think twice since that vendor will not have that revenue stream coming from the inmates.

MOTION 2008.024. When CVPC is not able to convene in time to act on a waiver requests, it is moved that CVPC allow QLDC the authorization to recommend to the department on a case-by-case basis whether a specific facility should be given a waiver of priority. QLDC will abide by any guidelines set out by CVPC to determine waiver appropriateness. If a waiver is recommended it will be for no more than 5 years and the recommendation would then be sent to the CVPC executive officers for review and then forwarded to the department. Waivers will be a standing report to the CVPC at each regular meeting during QLDC'S Subcommittee report.

Moved: Delegate Murphy  
Seconded: Delegate Begian

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Vote: Passed Unanimously  
Absent: Delegate Collins

Maker of the motion (Vice Chair Murphy) amended the motion to change "5 years" to *3 years*. Delegate Begian approved the amendment.

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**MOTION 2008.000** In order to assist CVPC and its QLDC to better determine the viability of a potential facility, certain information should be included with each waiver of priority that is about to expire or is being requested for the first time. Answer questions, such as the following, would be helpful: What were the sales during the waiver period? What is the average customer count? How many employees are in the building? We request that the Department include this information when asking for QLDC's recommendation on whether to renew a waiver or to recommend one for the first time. This information could be obtained by the agency requesting the waiver including in their contracts with private entities that this information be provided quarterly and then forwarded to BEP.

Moved: Delegate Murphy  
Seconded: Delegate Maestas

Delegate Begian said there is something similar to this in the Rules Committee and this would be redundant.

Delegate Murphy withdrew the motion and Delegate Maestas withdrew his second.

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**MOTION 2008.025** It is moved that the department provide the Executive committee copies of letters or notices that prove that a vendor or former vendor has in fact had there debt to the trust fund discharged by a court through a bankruptcy. It is further moved that if there is no documentation supporting a discharge of debt from a bankruptcy court in behalf of a current or former vendor, or if in fact, he or she is in a chapter 11 bankruptcy and has not named

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the department as a creditor, then license revocation procedures should begin immediately, and all necessary steps be taken to recover the lost funds. We request this information be returned within 30 days of receiving this motion.

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

Delegate Adams asked Delegate Murphy why the state colleges and universities are being put on the back burner. Mrs. Friesen read a motion from a past meeting: "Moved that DOR exercise BEP priority at all California State Universities." The response from the Department was: "BEP will make every effort to acquire revenues from vending machines on California State University locations." Delegate Adams said in every college that he is aware of there are already vending machines in place. Chair Hatch said there are political considerations, particularly if the colleges are collecting commissions and giving it to scholarship funds.

**Action Item:** Delegate Maestas asked QLDC to draft a letter re-asking for the information on the California State Universities.

## **2008 BEP/CVPC EDUCATIONAL CONFERENCE TASK FORCE**

Delegate Bedikian asked Mrs. Friesen to read the following: "As you are aware, the Public Relations and Educational Committee is preparing another educational conference which will take place on October 10-12, 2008. The BEP staff interested have participation in the conference too. Our committee had already four meetings on January 29, February 19, March 4, and March 11. During those meetings we discussed where the conference would take place. We talked about Embassy Suites in Los Angeles. Before the meeting Charay Compton presented a proposal on behalf of Embassy Suites. They were asking a state rate for the rooms and \$900 for the conference room and they have a free breakfast. During the meeting we decided to look for another hotel to hope and find a better deal.

Meanwhile, we checked also the Marriott next to Burbank Airport which offer almost the same rates as Embassy Suites, but we have been informed that due to critical budget crisis in the State of California the Department has requested the CVPC reduce the cost of the conference by 10 percent. This is a big issue and we are thinking of ways to come out of this situation. We will bring this question to CVPC to discuss and come up with a decision to continue working out the conference or to cancel it.”

Mrs. Friesen read an e-mail from Mr. Candela in regards to a question about assistance with the conference. Mr. Candela said the Department’s interpretation of the laws and regulations indicates the use of trust fund and federal dollars for purchase of personal assistant services is not permitted. In the past the funds have been utilized to sponsor transportation and other expenses for vendor, spouses, and significant others attending the annual training conference. This practice will be discontinued.

Chair Hatch said it is important that this committee consider the possibility that if it were to continue with the Educational Conference next year, depending on what the budget is, there may not be enough money left over to have even the quarterly meetings. CVPC’s ability to have an educational conference and to have its meetings will be compromised.

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**MOTION 2008.026.** Moved that CVPC will postpone the 2008 CVPC/BEP Educational Conference until 2009.

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

(This motion in accordance with the Bylaws required a 2/3 vote to be heard) (Vote to hear the motion carried unanimously.)

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## **LA COUNTY TASK FORCE**

Delegate Begian said a letter was written to the Department noting what was needed in order to reduce the rent. The Task Force is waiting to hear back from the Department regarding this issue.

## **HEALTHY FOODS TASK FORCE**

In the absence of Delegate Collins a report was not provided.

## **AD HOC COMMITTEE FOR NOMINEE AGENCY**

Delegate Brown provided a recommended action. He noted that he does not necessarily agree with the motion but the subcommittee voted that he present it to CVPC.

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**MOTION 2008.027.** The Task force committee investigating the nominee agency proposal for the California BEP would like to submit the following motion:

Moved that the State will work in conjunction with the task force committee and the Deputy Director of Field Services for the Blind and the Program Manager for BEP in investigating the feasibility of a nominee agency administering the BEP.

The Deputy Director will send a letter within 45 days of receipt this motion to the Attorney General of California requesting his opinion on any road blocks of state procurement requirements, or state governmental personnel hiring requirements and for/or any other state requirements that would hinder a nominee agency for the Business Enterprise Program.

The letter to the Attorney General will include appropriate Federal and State statues regarding a nominee agency for BEP.

Moved: Delegate Brown  
Seconded: Delegate Murphy  
Vote: Motion Failed

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District One – Absent  
District Two – No  
District Three - Yes  
District Four – Yes  
District Five – Chairperson  
District Six – Absent  
District Seven – No  
District Eight – No  
District Nine – Absent  
District Ten – No

It was recommended to send this item back to the subcommittee for re-wording of the motion.

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## **DISTRICT REPORTS**

District 1 – Absent.  
District 2 – Nothing to report.  
District 3 – Equipment.  
District 4 – Nothing to report.  
District 5 – Chair Hatch said Valerie Salazar passed away.  
District 6 – Absent  
District 7 – Nothing to report.  
District 8 – Nothing to report.  
District 9 – Absent  
District 10 – Received a request from a vendor whose location is being closed. He is retiring and he requested that a nearby vendor take over 5 vending machines in that facility. Delegate Maestas referred him to the BEC.

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## **NEW BUSINESS**

Mr. Friesen advised the Committee that Joe Neary passed away.  
Chair Hatch said Richard Weber also passed away.

Delegate Brown said he received a letter from Franchise Tax stating that CVPC's tax form had not been filed for 2006. After he researched this issue he discovered that CVPC should not have had to file the form. He wrote a letter to Franchise Tax explaining this and he is waiting to hear back from them.

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## **ADJOURNMENT**

MOTION 2008.028. Moved to adjourn at 3:10 p.m.

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