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**CALIFORNIA VENDORS  
POLICY COMMITTEE  
(CVPC)**

**Meeting Minutes  
May 29, 2008**

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# CALIFORNIA VENDORS POLICY COMMITTEE

## Meeting Minutes

Meeting commenced at 10:00 am, Thursday, May 29, 2008.  
Location: 721 Capitol Mall, Sacramento, California

### 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 10:04 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 **seven (7) delegates** in attendance, which satisfied the requirements of a Quorum.

There will be a closed session scheduled at 1:00 p.m. Only the CVPC delegates, CVPC Executive Secretary, and the Recording Secretary will be in attendance at this special meeting. Open session will commence at approximately 1:30 p.m.

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
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	Corcoran State Prison
District 6	Scott Schamber	Delano State Prison, Delano, CA
District 7	Alternate Sandy Balani	U.S. Court House Los Angeles, California
District 10	Frank Maestas	San Diego Police Department San Diego, CA

Chair Hatch said the delegate for District 9 has not attended the last two meetings nor has he sent an alternate in his place. The Bylaws state that if a delegate misses two meetings without sending an alternate then he/she forfeits their seat, therefore there will be vacant seat for District 9.

## **INTRODUCTION OF STAFF AND GUESTS**

**Joe Xavier**, Acting Program Manager  
**Janis Friesen** - CVPC Executive Secretary  
**Toni Stratton** - CVPC Recording Secretary

### **Guests and BEP Vendors:**

**Steve Webb** - Licensed Vendor  
**David Hanlon** – BEP Vendor San Diego  
**John Friesen** - retired BEP vendor Sacramento  
**Roy Harmon** - BEP Vendor, Oceanside

Delegate Linker asked if it would possible for the Committee to obtain a copy of the recorded tapes from Ms. Stratton. He noted that he will personally pay for them since it is not an allowable expense in

the contract with Peters Shorthand Reporting. Ms. Stratton will provide copies of the tapes at an expense of \$25. He requested that the tapes be sent to the Secretary-Treasurer (Delegate Brown).

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## **MINUTES – Recommended Action**

Approve the minutes of the CVPC meeting held on March 27 & 28, 2008 and the responses to the CVPC motion of March 27 & 28, 2008.

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**MOTION 2008.029.** Moved that the committee accept the minutes of the March 27 & 28, 2008 California Vendors Policy Committee meeting as distributed.

**Moved:** Delegate Brown  
**Seconded:** Delegate Murphy  
**Vote:** Passed Unanimously  
**Absent:** Delegate Bedikian & Collins

Mrs. Friesen read the responses to the motions from the March 27 & 28, 2008 meeting:

Motion 2008.015 move that CVPC appoint Tom Linkler as the delegate representative from CVPC District 1.

BEP Response: No BEP response required; motion applies to CVPC operating procedures, however CVPC must comply with applicable regulations. California Code of Regulations §7226(e) requires a delegate be duly elected by plurality vote of the licensed vendors within that district. Further CCR §7226(h) describes the provisions under which a delegate can be appointed.

Delegate Linker asked if the Committee's recommendation stands as presented in the above motion. Chair Hatch clarified that it is the Committee's recommendation that he be appointed as the Delegate for District 1.

Motion 2008.016 moved that CVPC approve the purchase of ten Human Ware Victor Streams including 1-gigabyte memory cards. Ms. Friesen announced that she has Victor Streams for all the delegates.

Motion 2008.019 moved that CVPC approve the following position on Proposed BEP Regulations §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.

BEP Response: No BEP response required, motion applies to CVPC operating procedures. The comments will be received and responded to through the public comment period for the proposed regulations.

Motion 2008.022 moved that CVPC approve and 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.

BEP Response: BEP does not support this motion. The drafted guidelines cannot supplant the requirements of the Randolph-Sheppard Act, the Welfare and Institutions Code, or the implementing regulations. Further, use of a Memorandum of Understanding is not applicable or appropriate. Nonetheless, BEP is committed to participation by CVPC.

Delegate Murphy said he understands that the Rules Committee is continuing talks with the Department to further define active participation as it applies to CVPC. He asked Mr. Xavier if this was correct.

Delegate Linker said a letter had been sent to Director Tony Candela from the Chair of the Rules Committee and a response has not been received. Chair Hatch asked that these questions be handled under the Rules Committee report.

Motion 2008.025 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 their debt from the trust fund discharged by a Court through a bankruptcy. It was further moved that if there is no documentation supporting a discharge of debt from a bankruptcy court in behalf of the current or former vendor, or if in fact, he or she is in a Chapter 11 Bankruptcy and has not named the Department as a creditor, then license revocation procedures should begin immediately and all necessary steps be taken to recover the lost funds. It was requested that this information be returned within 30 days of receiving this motion.

BEP Response: BEP does not support this motion. As a matter of practice BEP does not share identifiable financial data, excluding summary information on location announcements with CVPC and vendors at large. However, CVPC is not restricted from securing the requested information from the courts. Additionally, notwithstanding the request, BEP is obligated within applicable authorities, to pursue the collection. When applicable, and as appropriate, license revocation is considered and executed. As reported during the March 2008 meeting, within available resources, actions are being taken for failure to pay the required fees.

Chair Hatch asked Mr. Xavier if it would be possible for the Committee to receive general information (without identifiers) about what bankruptcies have occurred in recent times, as well as the outcome on the program.

*Action:* Mr. Xavier will look into Chair Hatch's request.

Vice Chair Murphy said the subcommittee would like some help from the Department to see how many dollars has been discharged through bankruptcy. The subcommittee is concerned that a vendor may have said they were going to file bankruptcy but no letter from the Court has been received. The subcommittee would like to have a reconciliation completed in this matter as well as what the policy is for

bankruptcy as it relates to vendors' being able to retain their license.

Mr. Xavier said the Department may get notice that a bankruptcy has been filed, but the disposition may not be received until much later. When the Department takes action for failure to pay, then the bankruptcy becomes part of the legal consideration of what action can or cannot be taken. If the Department receives a letter that a bankruptcy has been filed it then becomes a consideration for action of failure to pay. The court maintains jurisdiction over who gets paid what, when, and how. Vice Chair Murphy asked if payments were being received through any Courts for vendors that have claimed bankruptcy. Mr. Xavier said he does not have the exact number but he is aware of at least one.

Delegate Maestas asked if it would be possible for a vendor to go through bankruptcy more than one time and still be able to retain their license. Mr. Xavier said he is aware of a specific instance where an individual had multiple bankruptcies at play. This does not occur now. He noted that bankruptcies are much more restrictive now.

Mr. Linker asked Mr. Xavier if he is representing the Department as a designee from the Director's office for this meeting. Vice Chair Murphy asked Mr. Xavier to provide the Committee with as much information as possible on the bankruptcies while protecting anonymity of those vendors? With Delegate Linker's point in mind, Vice Chair Murphy asked Mr. Xavier if he would be able to provide the Committee with an answer as to whether the Department will provide this information. Mr. Xavier said his intent is to participate with the Committee to the extent that he is able to speak to issues. If he cannot respond he will take the questions back and address them later. He asked the Committee what role they would like him to play.

In response to Vice Chair Murphy's question he would like to have a clear understanding of what the subcommittee would like to see in the bankruptcy report. Mr. Xavier said the

Department would only know about bankruptcies if it received notice from the Court. As a matter of course, the Department does not conduct a search of what vendors have filed for bankruptcies. Vice Chair Murphy said for those vendors that the Department receives notice, would the Department be able to develop a report that lists how many vendors are in bankruptcy.

Vice Chair Murphy said it seems to him that the Department is trying to find loopholes in the Committee's motions. Why not find a way to comply with the Committee's request in order for it to complete its business. CVPC almost needs an attorney to write motions because the Department does not see the sense of what the Committee is asking for.

Delegate Linker said the Department puts this Committee in the position of being adversaries. The Committee requests information but they have to ask it three or four different ways.

Chair Hatch said rather than say that the Department cannot give out personal information on vendors, instead why not provide data, i.e. labeled "Bankruptcy 1, Bankruptcy 2, etc." with headings "Date", "Amount Owed", "Status". Mr. Xavier said it would then be helpful if the motion would specify specific items. Chair Hatch asked if this information could be provided.

Action: Mr. Xavier said he would have to see how the Department receives this information and if the data requested can be extracted. At a minimum the Department should be able to identify the number of bankruptcies and the timelines they meet. He will research this and bring what information he can provide back to the Committee.

Mr. Hanlon asked if the Department, upon receiving a notification from the Bankruptcy Court, follows through and requests payment.

Delegate Balani asked if vendors have multiple bankruptcies are they then able to retain their licenses; and after how many. Mr. Xavier said if a license is being terminated for failure to pay

and an individual has secured bankruptcy protection, it is his understanding that the Department cannot pursue failure to pay.

Action: Chair Hatch said even though someone has declared bankruptcy, if they have not sent in a year's worth of P&L's could not the Department continue with the license revocation because it would then be based on not submitting. Mr. Xavier said he will have discussions with legal and report back.

Delegate Linker said he is bothered that when questions are asked as to why the trust fund is not functioning properly it does not get addressed. However, the Department did take the time to address and expand upon one particular motion (Motion 2008.015 move that CVPC appoint Tom Linker as the delegate representative from CVPC District 1). Delegate Linker asked Mr. Xavier if this was a form of harassment. Mr. Xavier said the response the Department provided to this motion had nothing to do with a particular delegate. It could have been any delegate at any time. The Committee has, under the Regulations, the authority to appoint the delegate for set circumstances. The Department's purpose in providing an explanation was as an informational piece only. There was no harassment intended.

Delegate Linker reiterated that the Department took the time to respond to this particular motion; however they do not provide other information that is requested. The Committee wants and needs answers to their questions and if they have to get an attorney then they will.

Delegate Adams said that he has requested financial information for over year, and, finally has received that information. He believes he received this information because Mr. Xavier was in the Acting Program Manager's position. He noted his appreciation.

Chair Hatch said both Delegate Linker and Delegate Adams are correct; there are some things the Committee never

receives responses to, but recently the Committee did receive a financial report.

## EXECUTIVE OFFICER'S REPORT

### Report of the Chair

a. Action Items from March 27 and 28 meeting:

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

Chair Hatch said there has been some improvement. The Committee has been told that they have as much time as it needs to work with the Department on DOD regulations. His concern is that the Department will make changes and send it on to Agency before the Committee has a chance to review it. The Executive Committee did receive a commitment that the Department would not send it out before the Committee had a chance to look at it.

Mr. Webb said it does not seem that the Committee has a firm commitment from the Department on the regulations. Chair Hatch said he does not have this in writing but he does have a verbal commitment.

*New Action Item:* Chair Hatch will attempt to get this in writing from the Department.

2. SB 441- Healthy Foods in Vending Machines on State Property – The Executive Committee met with Senator Torlakson's office. CVPC explained what needed to occur in order for CVPC to drop its opposition.

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

*New Action Item:* Chair Hatch has not followed through on this item but he will meet with the Executive Committee to see if he can get a final solution to this issue.

3. Vice Chair Murphy said the Department's position is that 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.

Ms. Friesen said she has not received any information. Vice Chair Murphy said everyone should have received the packet from Prudential. Chair Hatch said there were vendors who were not aware of the situation with Prudential simply because the Department did not write a letter to them explaining what was occurring with the retirement plan.

Vice Chair Murphy said a Prudential representative will be contacting each individual vendor to discuss what format (text format for screen readers or hard copy) they would like to receive the information. Currently, the information received from Prudential is through hard copy.

*New Action Item:* Delegate Brown said he has the business card of the representative for Prudential and he will ask Mrs. Friesen to put it on the website.

Mr. Webb said he participated in a conference call where he asked if information regarding the retirement fund could be provided in an audio or text format. Mr. Candela committed to honoring this request but it did not happen.

4. **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.

Chair Hatch said the Executive Committee has not filed a grievance. Mr. Xavier will be reporting on this issue later and it may become apparent that a grievance will not need to be filed.

5. **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.

Vice Chair Murphy said a grievance was not filed because information was received at the end of the meeting (March 27) clarifying this issue. There is not a problem with Workman's Compensation other than if a vendor does not pay. However, there is a problem with the liability insurance to the extent that set aside monies cannot be used to fund it because it. The Department is working on solutions to this issue.

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

Vice Chair Murphy sent the signature card to River City Bank (which is now the bank CVPC is using).

7. 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".

**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.

Mr. Xavier said he has sent an inquiry to fiscal but has not had an opportunity to follow-up with this issue.

Delegate Linker asked if the delegates would have an opportunity to purchase the Victor Streams at the end of their term. Chair Hatch said this might be something to consider.

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

Mrs. Friesen noted that Mr. Xavier did send the report and it was distributed to CVPC delegates.

9. 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.

Mr. Xavier said he still has not had an opportunity to look into this matter.

10. **Action Item:** Mr. Xavier will research the waiver tracking and their details and report back to the QLDC.

Mr. Xavier said this is something he can get out in the next few days. A log has been created but he wants to be sure that the data is valid before he sends it out.

11. **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.

Mr. Xavier said his understanding is that Gaviota is being prepared for circulation but he does not know the timing. Vice Chair Murphy said QLDC can report on this later.

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

Vice Chair Murphy said the Committee asked Ms. Fleming to send the letter. It is his understanding that she was directed not to send the letter out. Mr. Xavier said he has not been involved in the discussion. Vice Chair Murphy said QLDC would like this letter sent out. He asked Mr. Xavier if he sees any reason why it could not be sent out. Mr. Xavier said without looking at the letter he cannot commit to sending it out. Vice Chair Murphy said this is a standard letter that is sent to every facility advising them of the program. He again asked if there is any reason why the letter could not be sent to state colleges. Mr. Xavier re-stated that he cannot commit to sending the letter until he has reviewed it.

Delegate Adams said he would like to know how other delegates feel about pursuing the state colleges. He said his own view is, at the very least, a grievance should occur. Delegate Linker said legal action may be CVPC's only recourse if the Department does not send the letter on CVPC's behalf.

Mrs. Friesen was asked to read the original motion:

“Move that DOR exercise BEP priority at all California State Universities; take all necessary actions to receive vending

machine commissions pursuant to W & I Code Section 19625 and 19627 and Section 7216 of the California Code of regulations.”

BEP Response: BEP will make every effort to acquire revenues from vending machines on California State University locations.

Mr. Friesen said it appears that the Committee has not done their due diligence in following up on this issue. He believes the Executive Committee should contact the Director and specifically discuss this issue. If, at that time, the Executive Committee believes that the Department is not doing its job then they can decide whether to file a grievance.

*Action Item:* The Executive Committee will meet with the Director regarding this issue. If no results occur as a result of this meeting then a grievance should be filed.

- b. SB 441 is moving and is in its third reading in the Assembly. The vote was 12 yes and 5 no so it did not go through easily. It is in the Business and Professions Committee and the hearing date is June 4. CVPC opposes this bill.
- c. AB 2608 – This is the bill concerning rehabilitation funding. It is being held in committee under submission. It is the belief that this bill will not continue. The author plans to make changes and the bill will look completely different.

Mr. Friesen asked the Committee to consider legislation to change the fee structure. Perhaps the Chair would assign this to the Fiscal Committee to investigate and report back at the next meeting.

**Action Item:** Chair Hatch assigned this issue to the Financial Committee.

- d. AB 2716 – This is the bill would provide that an employee who works in California for 7 or more days in a calendar year be entitled to paid sick time. It is moving along and headed to the Senate.

### **Report of the Vice Chair**

- a. Report of BEP Retirement – Vice Chair Murphy said the funds will be moved to the Prudential account the first week of June. Prudential will contact each individual plan participate to educate and train them on their investment choices.

### **Report of the Secretary-Treasurer**

- a. CVPC Fund Balance – Secretary-Treasurer Brown said as of April 30, 2008 there was \$21,494.66 in the account. CVPC funds have been moved from Washington Mutual to River City Bank. All the signature cards have been signed.

\$2,990 is still outstanding. This was for the ten Victor Streams. Also outstanding is \$756.51 for Mrs. Friesen's computer. After these checks are written there will be a balance of \$17,787.22.

- b. Renewal of web site hosting.
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**MOTION 2008.030.** Moved that CVPC approve the payment from the CVPC convention fund for mycvpc.com hosting and domain name renewal. This amount has been \$107.40 in previous years.

**Moved:** Delegate Brown  
**Seconded:** Delegate Maestas  
**Vote:** Passed Unanimously  
**Absent:** Delegate Bedikian & Collins

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## DEPARTMENT REPORTS

Delegate Linker said the Director and Deputy Director were confirmed to their appointments of directorships to DOR and he officially welcomed and congratulated them. In addition, Mr. Linker and the Committee congratulated Mr. Xavier in his new position of becoming Deputy Director.

Joe Xavier, Acting Program Manager provided the following report:

- a. Financial Report – There is one change on the Budget under Management Services. The contract for CVPC election has a zero amount attached to it. In the coming fiscal year if there is going to be a contract it will need to be budgeted.
- b. An MOR by-line-item report has been distributed. This is an extensive report. Additionally, a report has been prepared that would establish a flat rate and percentage of net income for existing facilities for 2007. This would yield the same, or a similar amount of fee that is being received today. This report is a draft and is presented for discussion purposes.

Delegate Adams asked if for those facilities where the net proceeds exceed \$1,646/month there would be a flat fee of \$200 imposed plus 25 percent of proceeds that would not exceed 6 percent of the net sales. Mr. Xavier said the two combined cannot exceed 6 percent.

Delegate Adams asked what the difference is from current fee schedule to proposed. Mr. Xavier said if these two approaches were used (flat rate plus percent) the objective was to find out what would be needed to come to the same level of fee. In a cursory review there are locations that are currently paying a higher fee which will pay less and there are some that will pay more than what they were paying.

*At this point Mr. Xavier had to leave for a meeting. He will continue his report and Delegate questions after lunch.*

*The Committee agreed to a working lunch. Meeting continued as follows:*

Mrs. Friesen disseminated the Victor Streams and asked each delegate to sign the CVPC Human Ware Victor Stream Check-out and Responsibility Agreement.

## COMMITTEE REPORTS

Training: Delegate Maestas said the subcommittee made minor revisions to three questions used for exit interviews.

In asking the question: What did you most dislike about the training class; four out of five commented on OJT. This is an area that the Committee needs to immediately address.

The Committee discussed developing manuals, or some sort of standardization for OJT. Development of a mentoring program was also discussed.

Delegate Maestas said the applicants should be viewed as potential business people and not potential students. He is concerned that the students' confidence level is not where it should be. The Committee will look at this issue.

Three out of five students commented that communication with the instructor is lacking, for instance, he speaks too fast. This is another area that the Committee will address.

Delegate Murphy asked if follow-up interviews had been completed with last year's graduates.

*Action Item:* Delegate Maestas said there has been no follow-up as far as he has seen, but he will bring this up to the Committee and develop pertinent questions to ask those graduates who have been out in the field for one year. Mrs. Friesen said a question might be, "how many selections have you gone to".

Delegate Murphy said one statistic he would be interested in is how many have graduated from training, how many are in successful facilities and are happy.

Delegate Maestas said there seemed to be a sense of fear from the students at the beginning of training. This was a red flag to him.

*The Committee adjourned into closed session at 1:00 p.m.*

*Back into public session at 1:46 p.m.*

Quality Location Development: Vice Chair Murphy provided the following information:

- a. Renovation plans for existing SRRA facilities. There were four roadside rest areas that were slated for remodel for new construction. They are: Gold Run, Gaviota, Warlow. Early next year the Committee will be dealing with Shandon and Roberts. The total amount of dollars budgeted for new facility development for FY 08-09 is \$250,000. QLDC believes the following three facilities can be developed this fiscal year. Dollars allocated: Gold Run - \$100,000; Gaviota - \$44,000; the balance of the money should be used to develop the San Diego Border location (San Ysidro). Vice Chair Murphy asked if Warlow will be remodeled or if it will go out to contract.

Mr. Xavier said there are a number of legal issues that need to be worked out with the existing vendor and he does not have the outcome yet. He brought to the Committee's attention the fact that the Department is having to re-visit Marysville (CalTrans). This is an issue because it is a commitment that was made a number of years ago and the project is in the actual completion stages.

Chair Hatch said if the Department feels they are obliged to develop this (approximately \$180,000) then that would leave only \$70,000 for any other development. Mr. Xavier said there are a couple things to keep in mind. If this commitment is withdrawn CalTrans will elevate it to their highest level. BEP's reputation is on the line if they withdraw. Staff is reviewing all alternatives, including modifying the level of services, adjacent vending machines that could be of support to the facility, use of existing equipment, etc. In terms of funding there may be a carry over from this fiscal year.

Chair Hatch asked if Gaviota is still eminent. Mr. Xavier said he has not put a stop on it.

Vice Chair Murphy asked if there has been any discussion of using an outside teaming partner. Mr. Xavier one of the things that has been discussed is BEP's authority to lease manual food service. Legal has rendered an opinion on this and he will be sharing information in the coming days with CVPC. BEP has no authority to lease manual food service. The only authority it has is to contract out vending machines.

Delegate Adams asked if Marysville would meet a poor performing facility. Mr. Xavier said that it would. Mr. Xavier said low performing locations are a major problem that needs to be addressed for the health of the program moving forward. Staff will look at this location to evaluate (1) its viability; and (2) even if it is viable can it be funded with BEP's current condition. It is regretful that viability was not established before the commitment was made to CalTrans.

Mr. Xavier said there will be repercussions either way and the Department needs to bring this issue to QLDC for discussions. Vice Chair Murphy asked when he might like to meet with QLDC. Mr. Xavier said possibly as early as tomorrow. Vice Chair Murphy said he will strive to make this happen.

Mr. Friesen said earlier this morning Mr. Xavier alluded to the fact that the Department could not spend general fund money on the BEP program. This is not correct. The general fund money, and how it is spent, is up to the directorate. If the directorate wishes to put money into the BEP trust fund they could, but they would have to take it from one of their other budgetary sources within the Department of Rehabilitation.

It was also stated that the Department cannot contract out or lease for food service. This might be true; however it does not preclude the Department from selecting a vendor and then that vendor could contract out for that service.

Mr. Friesen asked Mr. Xavier if when he budgeted for expansion of the program was it done using the same criteria for the expenditures for the previous year. Mr.

Xavier said the \$257,000 was not done using this year's experience; it was what was left over. The only way to free up more money for expansion is to reduce other line items.

Mr. Xavier said staff is reviewing the poor performing locations. They will bring a work plan to QLDC to address this issue.

- b. One issue that QLDC is having problems with is having Ms. Fleming go for vending machine commissions. It appears there is resistance from somewhere in the Department to go after such things as state beaches, state colleges, and federal prisons, QLDC would like to have the vending machine units commissions double or triple the amount of money it brings in. Ultimately he would like to see the vending machine unit take on most, if not all of the responsibility of health insurance.

Vice Chair Murphy asked Mr. Xavier if the Program is committed in helping quadruple the money coming into the vending machine unit. Mr. Xavier said the Department has an obligation to pursue vending machines and this is done within the resources available. This is a resource allocation issue. Vice Chair Murphy said state colleges have not been pursued, courts, or state beaches and he does not believe it is a question of staff's time. He said there should be an internal study performed. Many people are dissatisfied with staff that are not working efficiently. He believes the Program could be better. He cited Colorado, who has one quarter of the staff that California has and they produce the same amount of revenue to the vending machine unit that California does. It would not be a huge allocation of staff time to enter into a Texas-type statewide contract with the postal facility. Steve Levy would walk the Program through getting the postal contract statewide for California.

Mr. Xavier said there has been a suggestion to transfer health insurance to the vending machine account. This would require the vote of the vendors for these funds to be so appropriated. Chair Hatch asked if having a vote of the vendors is the only thing keeping him from doing this. Mr.

Xavier said collecting more vending machine commissions does nothing to change the health of the trust fund.

Vice Chair Murphy said the vending machine account needs to be built up in order to provide a good basis for getting support from the vending community. QLDC is foreseeing putting a vote to the vending community as a whole, to shift the burden from set-aside to VMA for health insurance. He does not see any reason why the Department would not allocate money to help get the strategic plan off the ground. Mr. Xavier said it is simply a matter of resources and the best way to appropriate them. Vice Chair Murphy said the Committee would be happy to provide suggestions to the Department on how to allocate resources. Mr. Xavier said at the appropriate time, if the Department felt it needed to consult with the Committee, it would.

Vice Chair Murphy said if the Department's response to pursue the postal contract is "we don't have the resources", the vendors in the State of California will not understand this. This one contract could start paying tremendous benefits to the set-aside fund. QLDC would like to see this happen as part of a master plan in order to help restore health to the Program.

- c. Status of Federal Prisons – Vice Chair Murphy said these are at a stand still.
- d. Courts Transition – The Courts transition is a 2-3 year process. At the last meeting the Courts acknowledged that BEP would have priority in all jury rooms.

Mr. Xavier said there has been much discussion with staff and the courts. He has not been involved in these discussions. In those areas where BEP does not have a presence there could be an impact but the Program does not have the funds. Vice Chair Murphy mentioned that there are 408 buildings involved in the Courts transition.

Delegate Brown asked Mr. Xavier if BEP is understaffed. Mr. Xavier said the ratio of staff to vendors is higher than any other program. Delegate Brown said if BEP is not

understaffed or underfunded then there should be no reason why vending machine commissions are not collected. Mr. Xavier said staff has other responsibilities and for them to take over the vending machine commissions (both contracting and/or collections) then their other responsibilities will not be fulfilled. Presently there are over 450 contracts with one half million dollars worth of collections.

Vice Chair Murphy noted that Texas has 28 contracts and triples what California takes in. Mr. Xavier said Texas has a regional type contracting approach and this is something that California should look at.

Delegate Brown asked if it would be appropriate to add one person to the BEP staff to collect the funds and get the program back on track.

- e. Report on Waivers – PERS has developed a wet stand that there is no waiver for and QLDC will need to address this. There are no new waivers pending.

### **Closed Session Update**

Chair Hatch noted that in closed session there were two motions voted upon and they will be presented now for a vote.

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**MOTION 2008.031.** Moved that since the Welfare and Institutions code allows up to 10% of unassigned vending machine revenue on State property can be used to pay legal fees for CVPC, that the Department encumber \$10,000.00 for this purpose from the vending machine trust fund so that any forth coming legal expenses may be paid up to that amount.

**Moved:** Delegate Murphy  
**Seconded:** Delegate Linker  
**Vote:** Passed Unanimously  
**Absent:** Delegate Bedikian & Collins

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**MOTION 2008.032.** Moved that CVPC use \$2,500.00 from the convention fund to pay for legal advice for the CVPC. These funds will be directed by the CVPC Executive Committee.

**Moved:** Delegate Murphy  
**Seconded:** Delegate Maestas  
**Vote:** Passed Unanimously  
**Absent:** Delegate Bedikian & Collins

## **DEPARTMENT REPORTS (Con't)**

Delegate Adams said he would like to gain a better understanding of the proposed set-aside fee schedule. If expenses are increased it simply decreases the net proceeds which the 25 percent is based upon. How would the proposed fee schedule be helpful other than the \$200 flat fee? Mr. Xavier said this is true with the proposed and it is also true with the current process.

Delegate Adams asked if there are any other possibilities for generating fee which is more guaranteed; especially for those facilities that are paying little or absolutely no fee at all. Mr. Xavier said the only restrictions that he is aware of is contained in the W&I code and federal law where fee is to be based on net income.

Delegate Adams asked if there was a way the Department could, with CVPC participation, incorporate standards for expenses, such as labor costs, food costs, etc. In other words, have standardized percentages for any given facility. Mr. Xavier said there are two areas of focus: (1) how to identify low performance (perhaps start with locations whose fee contributions are not sufficient to cover expenditures; (2) drafting a workplan on the actions that would be taken with low performing locations. CVPC would need to be involved in the draft.

Mr. Xavier said other areas that need to be looked at is how to increase revenue and decrease expenses within all of the locations. Mr. Linker said if the current plan of how things are being done were reversed issues might get resolved. If vendors were to pay fees into their retirement fund and staff were to collect money from the vending machines it might help.

Vice Chair Murphy asked if when the Department develops the proposal for changing the fee schedule (the 25 percent) could standards for percentages on an MOR also be included by setting acceptable limits, i.e., set a cap on expenditures.

Mr. Friesen said it would be good if the Department could draft a letter to all the vendors explaining that they are investigating into low performing facilities and what staff will be doing to verify low performance, including audits. Mr. Xavier said there is validity to what Mr. Friesen is suggesting but he does not want to send something out until staff is actually executing the plan for low performing facilities.

Delegate Maestas asked if there is a formula for bench park percentages for food costs, labor costs, etc. Mr. Xavier said it was Vice Chair Murphy who suggested percentages and he only acknowledged that this should be an element of how low performing locations are reviewed. The Department generated a comprehensive report that was distributed to the CVPC Executive and Finance Committee. He suggested that the average food costs for all cafeterias statewide could be calculated from this report. The draw back to this is that it is an average of existing practice; however it could be a starting point for benchmarking. This is only one of many components that should be looked at.

Delegate Maestas said his concern is that different areas of the state have different costs of living and large companies (CISCO and US Foods) have different systems in place to charge for their product. Mr. Xavier said this is something that should be considered.

- c. EDD has approached BEP and would like to speak to CVPC regarding health insurance coverage for the BEP vendor's staff. The Department had a discussion with them and explained that vendors are private business owners who decide what to pay and what benefits to offer. Nonetheless they would like the opportunity to address CVPC.

Mr. Linker asked if the Department is in support of this notion. Mr. Xavier said the Department did not take sides one way or the other. He committed to EDD that he would bring the issue to CVPC.

Mr. Xavier said BEP has facilities at EDD locations and when they saw the effects of a vendor employee who did not have health insurance it became their concern. Chair Hatch said he understands that EDD could have an interest on their own property but on what authority would they request vendors have insurance for all employees. Mr. Xavier said it is a request. Vice Chair Murphy and Delegate Adams said they would welcome EDD to present to CVPC.

*ACTION:* Chair Hatch asked Mr. Xavier to put EDD in touch with the *Executive Committee, through the Chair.*

- c. Another three actions are being forwarded to legal on vendors who have failed to pay. There are two or three more that are in the beginning stages of being prepared.

Mr. Friesen asked how many have been terminated in the last year. Mr. Xavier said there are two that are ready to be published but he cannot disclose the outcome until they have been published.

Chair Hatch said it would be helpful if all vendors knew this was occurring. Mr. Xavier said the word is filtering out and he has received inquiries on delinquencies.

Mr. Harmon said he thought he heard in an earlier statement regarding liability that the insurance companies do not like rest areas. Mr. Xavier said when costing occurred for liability coverage it was noted that companies do not want to provide coverage for rest areas. Mr. Harmon said he can get twice the coverage for one tenth the cost on his own.

- d. Two facilities have requested BEP to vacate: one is the federal building on Cottage Way, Sacramento; and the second one is the County Administrative building also in Sacramento. BEP does not have priority in the county building. The county is putting out a request for a food service provider. The federal building location is a poor performing location. Legal is looking at whether waivers apply on federal property.

Mr. Friesen said there are three food service facilities closing and CalTrans in Marysville needs equipment. It seems that out of the three facilities closing there would be equipment for Marysville. Mr. Xavier said this is something that is being looked at and they are evaluating the cost of moving the equipment and the viability of the facility. He does not know who paid for the equipment on Cottage Way; whether it was the federal government or BEP.

Delegate Brown asked about funds for maintenance and repair of equipment. Mr. Xavier said at the March CVPC meeting he mentioned that expenditures had been reduced to health and safety because of the Program's condition at that time. Staff took that to heart and the Program is now looking much better. He has informed staff to expand their repair and maintenance of equipment. Delegate Brown said he will be filing a grievance tomorrow because when he took over the Evergreen facility the espresso machine did not work. He put in a service order to have it repaired and he was told there was no money. He had it repaired and paid for the expense out of his own pocket. Yesterday, the espresso machine at the county administration building (which will be closed) was repaired by the Department.

- e. Delegate Maestas asked if the SBEC's and BEC's have been informed that there is money to spend. There are two vendors in District 10 that have lost significant income due to equipment not running and they have been told that there is no money to repair equipment. Mr. Xavier said this year contract dollars had to be disencumbered to cover other expenses. When you take money from one area to another area it becomes problematic. It needs to be adjusted from the standpoint of where we are in the calendar year, what kind of revenues and expenditures have come in. This has not been an easy process and he appreciates the position every individual vendor has had.

Chair Hatch said when vendors request repair earlier in the calendar year and if money is not available it should be noted and logged somewhere so that when money does become available they are notified.

- f. Program Manager – the Department is reconsidering one of the applicants and it is his hope that the selection will be known within the next few days.

Mr. Harmon asked if the Department would be providing information on risk management. Mr. Xavier said there is some information, such as personal data, that cannot be disclosed. He has asked staff to sanitize the data.

Mr. Xavier has also asked for a breakdown of the \$90,000 appropriated in the budget for the administration of the health insurance, liability insurance, etc. The scope of work will be provided to him and as soon as he receives it he will share the information.

Mr. Friesen asked why the money for the management of insurance fee isn't being taken out of the premiums versus being charged out of the set-aside. For instance, why isn't it added on to the Worker's Comp as part of the management for Worker's Comp and for liability as part of the management for liability. Why is it being added on separately to the set-aside? Mr. Xavier said he does not know how it got started. The \$90,000 is matched dollars. Mr. Friesen said it could still be matched the other way. Mr. Xavier said it actually could not because Worker's Comp dollars are not matched.

Vice Chair Murphy asked if the \$90,000 to the Office of Risk Management is for both liability insurance as well as health insurance. Mr. Xavier said he has not seen the scope of work for this contract, but he believes the management of both the liability and health insurance is included in this contract.

Vice Chair Murphy said once he receives the scope of work it would be interesting to see if the workers compensation portion could be charged to the worker's comp fund. Mr. Xavier reminded him that worker's comp is a requirement by statute. He has been asked: "Can the worker's comp dollars be used to off-set some of the shortfalls in the trust fund?" He does not believe it is legal, and certainly not

feasible, because the vendor paid worker's comp dollars, not worker's comp plus.

Vice Chair Murphy said if some of the \$90,000 is a direct expense related to worker's compensation than maybe that portion of the \$90,000 should come out of worker's comp.

Vice Chair Murphy asked if the ballot for life insurance will go out. Mr. Xavier said it is his hope that it will.

Vice Chair Murphy asked if Mr. Xavier if he will be acting program manager until a new program manager is hired. Mr. Xavier said the Department is working on the transition period right now. He will continue to provide some level of oversight for BEP.

## **COMMITTEE REPORTS (Con't)**

Grievance: Chair Hatch said the Grievance Committee is difficult because at numerous points the Department has said they will transmit grievances they receive to the Committee. As of late the Committee has not received any grievances. Delegate Schambers said he has nothing to report because he has not received any information from the Department.

Chair Hatch asked Mr. Xavier if he can provide information on any grievances in process. Mr. Xavier said since he has been acting program manager the Department has responded to two grievances. Both responses were shared with the Executive Committee.

There were a number of hearings that were occurring before he began as acting program manager. The Department is waiting for the judge's decision on one of them (the one in Oakland).

Chair Hatch said the grievance issue must get better. He asked Ms. Friesen to read the W&I Code that pertains to grievances (Section 19638B2). "The Director shall ensure that the participation of the Committee of Blind Vendors is at a minimum, equal to that required by Section 107B1 of Title 20 of the United States Code. The responsibilities and actions of the Committee of Blind Vendors shall include but not be limited to: (1) participation with the Department in major administrative decisions in policy and program development;

any implementation of changes in administrative policy or program development that is within the discretion of the Department shall occur only after review by this committee of licensed blind vendors. (2) Receiving grievances of blind vendors and serving as advocates for the vendors. (3) Participation with the Department in the development and administration of a transfer and promotion system for blind vendors. (4) Participation with the Department in developing training and re-training programs. (5) Sponsorship with the assistance of the Department of meetings and instructional conferences for blind vendors.”

Mr. Xavier said if he understood what was just read the vendors are supposed to come to CVPC who will then transmit the grievance to the Department. Mr. Friesen said it can mean that CVPC receives a courtesy copy and will then act as the vendors’ advocate.

Mrs. Friesen was asked to read 107: “In addition to other requirements imposed in this title and in this chapter upon state licensing agencies, such agencies shall: (1) provide to each blind licensee access to all relevant financial data, including quarterly and annual financial reports on the operation of the state vending facility program; (2) conduct the bi-annual election of a committee of blind vendors who shall be fully representative of all blind licensees in the state program, and; (3) ensure that such committee’s responsibilities include: (a) participation with the state agency in major administrative decisions in policy and program development; (b) receiving grievances of blind licensees and serving as advocates for such licensee.

Mr. Friesen said 107 does not stipulate that the grievance has to be transferred. It simply states receiving them, which could mean a courtesy copy.

Delegate Maestas said this federal code stipulates that the responsibility of the Committee will be . . . it does not include the Department having this responsibility. Mr. Friesen said there is another portion that speaks to the Department’s responsibility as far as the grievances. He believes this should be researched and then a letter should be written to the Director.

*Action:* Delegate Linker asked Mr. Hanlon if he might be able to make contact with Bob Humphries and ask him to provide feedback regarding this issue. Mr. Hanlon agreed to do this.

Delegate Maestas asked for Mr. Xavier's interpretation. Mr. Xavier said the question that was originally asked of him was "Can CVPC receive copies of grievances that come straight to the Department that do not go through the Committee?" If we answer this question it addresses the issue. The only question that comes to mind is what if the person filing does not want CVPC to receive a copy. Do they have the right to say "no"? He does not have an answer to either of these questions.

*Action:* Mr. Xavier will research this issue and provide his findings to the Committee.

*Action:* Mr. Friesen asked Chair Hatch to review this issue in Executive Committee. There needs to be communication from the Department on grievances, as well as from vendors themselves when they are going through a grievance.

Fiscal: Delegate Adams reported on the Fiscal Committee meeting of April 29, 2008.

1. The financial report entitled, "BEP Location Expenditures and Set Aside Fund Revenues for 2007" was reviewed at this meeting. The report showed the following:
  - a. 28 facilities pay no fee
  - b. 53 facilities spent more than was earned (including matching funds and no health insurance)
  - c. 60 facilities paid into the fund after meeting its own expenditures and health insurance
  - d. The average monthly net profit was \$2749
  
2. Joe Xavier indicated he would be providing an inventory of poor performing facilities and some probable reasons why. Guidelines and standards were being drafted that will identify poor performing facilities. This inventory will be provided to CVPC in the near future and input from the Committee will be sought.

Delegate Adams asked Mr. Xavier the timeframe for this inventory. Mr. Xavier said they have been drafted. He hopes he can get them to CVPC within 30 days.

3. The facility at Benvenute Plaza was used as an example of a poor performing facility. This is a facility that has never done well. There was some discussion as to some probable causes, i.e., building populations, deviances, and private sector competition were discussed. The Committee thought it would be prudent to dissect a poor performing facility in order to identify probable reasons as to why it was not successful. These identifiers would then be used to formulate a model so as not to duplicate this problem in the future.
4. It was also discussed to notify all vendors in writing the financial status of the BFTF. This notification would also explain the need for urgent evaluation and corrections to poorly performing facilities.
5. Request for information made to Joe Xavier.
  - a. The Fiscal Committee will request a detailed breakout of the expenditures and the purposes of the \$90,000 shown as management services on BFTF operating budget for 08-09. **Response:** “The costs are generally associated with the administration of the insurances we procure and request ORIM to administer. We are compiling the specific cost information and will forward it as soon as we can.”
  - b. Is this \$90,000 for services rendered from set-aside or will it go to the Worker’s Comp Liability Reserve Fund? **Response:** “This is a line item on the budget and is paid from the BFTF. Also, note it is a matchable expense.
  - c. Asked to provide an accounting for the claims and payouts for liabilities and worker’s compensation insurance for 2007. **Response:** “We have secured the loss run information from DGS. Unfortunately it is in a PDF and contains privacy and confidential components that must be redacted before we can share it. As soon as we can we will forward that data.”
  - d. When a blind vendor does not pay their worker’s comp insurance does the Department pay for the vendor from the set-aside fund. If yes, please explain the process. Would there be a lapse in coverage in this case? **Response:** “BFTF has three components: (1) operating fees; (2)

worker's compensation reserve; and (3) liability insurance deductible reserve. The BFTF operation fees do not pay for worker's compensation insurance. Failure to pay via vendor could result in reduced reserve and ultimately trigger increased rates. There is no lapse in coverage with failure to pay.

- e. When a blind vendor does not pay their liability insurance does the Department pay for the vendor from the set-aside fund? If the yes, please explain the process in writing.

**Response:** "Liability insurance is a prepaid policy from the operating fees. With each MOR submission each vendor reimburses the initial policy payment. When a vendor fails to pay the net effect is the reimbursement does not occur. DOR identified this issue when establishing the BFTF condition and preparing the budget for the coming fiscal year. We are compiling the alternatives and options with considerations, including a brief history of the issue. Once this is accomplished we will, of course, be bringing it to CVPC for consultation."

- f. Please provide the formula for calculating worker's comp and liability insurance reserves. **Response:** "Liability insurance is calculated at a base rate plus percentage of sales. I do not recall the specific numbers and will provide those in the coming days. Worker's compensation is adjusted through and actuary study which considers losses to determine if reserves are appropriate and what rates are needed to maintain the required reserves."
- g. As a friendly reminder, I am still waiting on the BEP announcement reports that were requested several weeks ago. **Response:** "The reports you require must be extracted individually by location/vendor. This is a workload issue we are working to address."

Delegate Adams noted that since the last meeting the BEP announcement reports were provided and it will prove to be of good use to the Committee.

- 6. After the March meeting Delegate Adams received two facility announcements; one was the U.S. Post office in San Bernardino. It showed on the announcement that net proceeds are \$750. The second announcement was the

Consumer Affairs in Sacramento showing net proceeds of \$114.

Delegate Adams asked Mr. Xavier why announcements like these are going out when it appears that they will be unable to sustain themselves. Vice Chair Murphy said QLDC recommended that neither of these facilities be circulated. Mr. Xavier said he does not know the timing of these two announcements, but there is no policy in place stipulating not to circulate a facility unless it meets a certain amount of dollars.

Mr. Xavier said a process needs to be in place to evaluate the cause of low performance because there could be many reasons for low performance.

Vice Chair Murphy said he wrote a letter regarding the Postal Service facility. He recommended that the Department negotiate with the postal service to let them know that it is not a viable facility for a snack bar or cafeteria because there are not enough people to support it. If the service would have been downsized this could have solved the problem.

Delegate Linker said there are vendors who have just completed training, who are willing to take anything they can get in order to get into the program and get started. In addition, there are vendors who are at poor performing locations who are doomed to fail. These poor performing facilities should not be announced.

Mr. Xavier said in the draft regulations \$3,200 is the proposed dollar amount for new locations and \$2,200 for existing locations. Based on data from 2007, 76 out of 147 locations do not meet the \$2,200 requirement; 93 out of 147 do not meet the \$3,200 requirement. Chair Hatch said these numbers are estimates, for instance, there may be a poor performing vendor who leaves a location showing \$1,200/month but if the facility is evaluated it may show it should be making \$3,500/month. Mr. Xavier asked Chair Hatch if the 76 out of 147 would indicate poor vendor performance. Chair Hatch said it may in some cases. He noted that when a vendor leaves a location it is up to the

Department to evaluate the location and determine what the cause might be.

Delegate Adams said why should adequate net income be higher in a new facility than it should in an existing facility. Vice Chair Murphy said QLDC has explored this area and the rationale is that in an existing facility the equipment is already purchased so it does not require as much money. Delegate Adams noted that this system is not working.

Mr. Webb asked how the Department comes up with their evaluation of how much a facility should be making. How did they arrive at \$1,900/month? Delegate Maestas said an audit would need to be done in order to verify the numbers. There is no system in place to verify what the numbers actually are.

Delegate Balani said \$1,900/month is the estimated figure the Department came up with based on the population and the amount of vending machines there are; again this is just an estimate. Mr. Webb said the Department should be responding to his question.

Mr. Friesen said this issue will not be resolved today but it is an issue that needs resolution. The Department does not have a standardized figure that they use. They have one BEC that uses 90 cents per customer and another that uses \$1.25. There is no evaluation or verification occurring. Mr. Xavier said the public comment recommended that \$2,200 be moved to \$3,200. The Department believes this needs to be reviewed because this may have intended consequences.

Delegate Adams asked Mr. Xavier if an existing facility does not show \$3,200 would BEP close it. Mr. Xavier said the way the Regulations are currently written it stipulates that \$3,200 is the adequate net income. Low performing locations is the biggest problem the Program faces. Moving forward there needs to be strategic clarity, that is, what will the consequences be; what will the unintended consequences be.

Vice Chair Murphy said the Department should negotiate the service to be provided at a facility, for instance, at the postal facility. Mr. Friesen said a line could be added to the

regulation that states: "This amount may be waived after consultation and agreement by the Committee."

*Action:* The Committee is willing to reconsider revised language if the Department brings it forward. Mr. Xavier will address this item and bring revised language back to the Committee.

7. Monthly operating report meeting set and re-scheduled April 30, 2008. Mr. Friesen said Steve Miller made a commitment to the subcommittee that within two weeks of their meeting he would provide the proposed changes that were discussed for this report. The subcommittee has not received this information, therefore he cannot provide a report to CVPC.
8. Interim List – 24 interims; 10 in Sacramento no ending dates; 3 vendors have 2 interims. Question: Is there a written policy as to how interim vendors are selected? Mr. Xavier said he cannot speak specifically to what is in existence today.

*Action:* Delegate Adams asked Mr. Xavier to find out if there is a written policy regarding interim vendors and report back to the Committee.

Delegate Adams noted that the interim list did not provide an ending date. There is a column for an ending date with no entry in it.

9. Information request – Mr. Xavier provided all the information that the Fiscal Committee requested and thanked him.

Mr. Xavier said there are times where he gets requests from different individuals requesting the same information. He has shared the information with Chair Hatch and Mrs. Friesen and will defer to them as to who they wish to share it with.

Rules: Delegate Linker, in the absence of Delegate Begian reported as follows:

- a. Status of BEP Regulations – There have been a total of 3 meetings and no progress has been made. The subcommittee is waiting for a written document from the Department.

Delegate Linker said he chose to present a resolution instead of a motion because a motion requires action whereas a resolution states policy. Mrs. Friesen said according to Roberts Rules of Order a resolution is a formal way of presenting a motion. It is a main motion and needs a second and is handled like any other main motion except that it is always presented in writing.

Mr. Friesen asked if the Resolution could be read for discussion purposes. Mrs. Friesen read the following:

“The California Vendor’s Policy Committee: Emphasizing by resolution the necessity for the Department of Rehabilitation, Tony Sauer, Director to make as a matter of policy the pursuit of opportunities not available by permit. Believing that direct negotiations that are well document for facilities and operations within the Department of Defense (DOD), Department of Education (DOE), and other federal departments any and all opportunities not otherwise available by permit. Noting the deep concern the number of new and lucrative facilities being available in recent years is diminishing and we are concerned that the Business Enterprise Program’s future is at risk: (1) request that the Department of Rehabilitation and Business Enterprise Program give to CVPC in writing any and all documentations as proof of negotiations for all contract opportunities by priority of the Randolph Sheppard Act; (2) further request that the Department of Rehabilitation and Business Enterprise Program give to CVPC, in writing, any and all documentations as proof of a blind vendor’s violating our rules and regulations and/or not fulfilling the conditions of their contract or contracts or delinquency in payment of their fee, insurances, or other demand for payments due the Department of Rehabilitation and Business Enterprise Program; (3) strongly support the blind vendors in continuing their contract or contracts and/or renewing their existing contract or contracts; (4) endorses this resolution and asks for its adoption into the Department of Rehabilitation and Business Enterprise Program policies from this day May 29, 2008 forward.”

*Action:* Chair Hatch said the Executive Committee will write a letter to the Director asking him to look at the above issues regarding regulations.

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**MOTION 2008.033.** Moved that the CVPC authorize the Rules subcommittee to review and work with the Department on proposed subcontracting regulations package.

When the reviewed, complete package is ready to be submitted to the Department, if the Department, due to the time constrains would like to obtain the package before the next CVPC meeting. The subcommittee will forward the complete package with recommendations to the Executive Committee for their final approval.

In this situation the Executive Committee will be authorized to submit the package to the Department, before the next CVPC meeting.

Otherwise the Rules subcommittee will follow the normal procedures and will forward the complete package with recommendations to the CVPC at the next regular CVPC meeting for approval and submission to Department.

**Moved:** Delegate Linker

**Seconded:** Delegate Balani (Alternate for Delegate Begian)

**Vote:** Passed Unanimously

**Absent:** Delegate Bedikian & Collins

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Chair Hatch asked Mr. Xavier about the internal audit and its timeframes. Mr. Xavier said he does not know that the Department has complied with all the timeframes. Chair Hatch said CVPC was told that they would be included in the discussions in order to provide input but at this point they have not been involved. Mr. Xavier said in terms of CVPC participating, the MOR work group is one area that is under the audit cap. He does not recall the other specific elements.

Benefits: Delegate Brown said the subcommittee asked the Department to send a letter to the vendors advising them of the change to Prudential. The Department said they would but did not. Some vendors received material from Prudential, thought it was an advertisement, and threw it away.

The life insurance premiums need to be moved from the trust fund. Delegate Brown provided a proposed ballot but has not received any feedback from the CVPC Executive Committee. Once feedback is received he will forward it to the Department requesting that it be

sent to all vendors. Mr. Xavier said he has not been involved in the life insurance issue beyond knowing that it is not an allowable expense out of the trust fund.

*Action:* Mr. Xavier will ask Tony Candela for an update on this issue and report back to CVPC.

Health Insurance: Delegate Brown said health insurance is a big drain on the trust fund. Therefore, he proposed the following motion because it would add approximately \$200,000 to the trust fund.

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**MOTION 2008.034.** Moved that the Vendor's share of health benefits be adjusted from the current \$87.00 to \$200.00.

**Moved:** Delegate Brown  
**Seconded:** Delegate Maestas

Discussion: Delegate Adams asked how many vendors contribute to the health insurance. Delegate Balani said a report was received from Jeff Derks showing that after the last increase (to \$87) there were no vendors who dropped out of the health insurance.

**Vote:** Passed Unanimously  
**Absent:** Delegate Bedikian & Collins

Ad Hoc Committee for Nominee Agency: Delegate Brown said this has been tabled and he has nothing to report.

## **District Reports**

District 1 – Absent

District 2 – Absent

District 3 – Nothing to report.

District 4 – Nothing to report.

District 5 – Nothing to report.

District 6 – Nothing to report.

District 7 - Delegate Balani said she has made calls to the vendors in her district just to see how they are doing. Most of the vendors are quite happy with the field office, their location, remodels, and their BEC. Delegate Begian, David Norris (SBEC), and Anthony Cooper (vendor) met with the county to request a reduction of the rent on

their locations. No conclusion occurred because the person they met with is retiring and nothing can be done until the new person is appointed. Delegate Begian would like to know when the county courts will be turned over to the state.

District 8 – Absent

District 9 – Absent

District 10 – Nothing to report

## **New Business**

Chair Hatch reported that a request was received from Marvena Brown from the Senate Office of Research who is doing a study of the Program at the request of Senator Torlakson. He and Delegate Brown met with Ms. Brown and discussed both the good points of the program and what areas of the program needed work.

Her report, once completed, will be forwarded to Senator Torlakson who will decide how he wants to handle it.

## **Open Forum**

There were no items of discussion.

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Chair Hatch said the next scheduled meeting is in Los Angeles, however he would like the Executive Committee to consider having the next meeting in Sacramento due to Departmental travel restrictions. The next meeting is scheduled for August 14, 2008.

**MOTION 2008.035.** Moved to adjourn at 5:40 p.m.

**Moved:** Delegate Adams

**Seconded:** Delegate Maestas

**Vote:** Passed Unanimously

**Absent:** Delegate Bedikian & Collins