



**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
CERTIFIED FARMERS' MARKET ADVISORY COMMITTEE (CFMAC)
Meeting Minutes
Sacramento, California
April 14, 2010**

MEMBERS PRESENT

William Lewis
Fred Ellrott
Russell Hall
Gene Etheridge
Nancy Pleibel
Karen Wetzel Schott
Pompea Smith
Leah Smith
John Silveira
Kurt Floren
Annika Knoppel
Amelia Saltsman
Frank Wells
Mary Lou Weiss
Dale Whitney

MEMBERS ABSENT

Jennifer McColm
Jacquelyn Byers

CDFA

Maria Hicks
Rick Jensen
Steve Patton
Dave Carlson

INTERESTED PARTIES

Jim Murez
Mark Sirota, Etheridge Farms
Samantha Kaplan, Etheridge Farms
Dan Best
Rosemary E. Fei, Adler & Colvin

ITEM 1: ROLL CALL

The meeting was called to order at 10:05 a.m. by Mr. Gene Etheridge, Chairperson. Roll was called, introductions were made, and a quorum was established.

ITEM 2: ELECTION OF OFFICERS

MOTION: Mr. Russell Hall moved to nominate Mr. Etheridge as Chairperson. Ms. Leah Smith seconded. Ms. Mary Lou Weiss closed the nomination. The motion passed unanimously.

MOTION: Ms. Karen Wetzel Schott moved to nominate Mr. Fred Ellrott as Vice Chairperson. Ms. Weiss seconded. Ms. Weiss closed the nomination. The motion passed unanimously.

ITEM 3: APPROVAL OF MEETING MINUTES

MOTION: Mr. John Silveira moved to approve the October 14, 2009 meeting minutes as submitted. Mr. William Lewis seconded. The motion passed unanimously.

MOTION: Ms. Amelia Saltsman moved to approve the January 20, 2010 meeting minutes as submitted. Mr. Fred Ellrott seconded. The motion passed unanimously.

ITEM 4: APPROVAL OF AGENDA

Mr. Etheridge proposed that when Ms. Rosemary E. Fei arrives, item nine, the definition of an operator, shall be discussed. The committee approved.

MOTION: Ms. Weiss moved to approve the agenda as amended. Ms. Wetzel Schott seconded. The motion passed unanimously.

ITEM 5: CDFA REPORTS

A.) Enforcement Report-

Mr. Steve Patton provided the committee with an overview of the non-compliance enforcement cost analysis. Mr. Patton stated that an internal cross training for organic inspectors will start in the near future.

Mr. Gene Etheridge inquired what program will be funding the training. Mr. Patton stated that the State Organic Program and the Certified Farmers' Market Program will fund the training.

B.) Committee Vacancies-

Ms. Maria Hicks informed the committee of current vacancies. Mr. Patton iterated that alternate members are not compensated for any travel expenses unless they are sitting in for an absent member during that meeting; regular members are compensated for travel related expenses only.

The CFMAC requested that a current committee list be distributed to the members. Ms. Hicks stated that she will email committee members an updated committee list.

ITEM 6: BUDGET APPROVAL

Mr. Patton stated that the most noticeable change for the proposed budget for fiscal year (FY) 2010/11 is the projections for salaries and benefits. Mr. Patton reviewed the direct charges for salaries for the proposed budget and stated that the Inspection and

Compliance Branch is looking to hire another investigator in the near future that will be half time for Northern California.

Mr. Gene Etheridge asked what happens to carry over money. Mr. Patton stated that carry over money is put into the reserve. Mr. Patton explained that the CFMAC is a specially funded program; the Governor can borrow money, but would have to pay it back with interest. Mr. Patton stated some advisory committee's have moved their money out of the agricultural fund and into certificates of deposit. Mr. Etheridge asked what the timeframe is for paying the money back. Mr. Patton stated he will look into timeframe.

Mr. Russell Hall stated in past years CDFA has provided the CFMAC with bar charts by quarter and stated that the bar charts would be a helpful handout at the next budget meeting. Mr. Patton stated that the CFMAC decided to forgo the multiple reports that were previously provided by quarter in order to conduct more enforcement activities. Mr. Patton stated that there are more proposed expenses that will be expended on the new part time inspector.

Ms. Wetzelschott asked how many markets are in arrears. Mr. Patton stated that he did not bring that information with him to the meeting. Mr. Patton stated that the number of markets is up, but the Inspection and Compliance Branch is unable to track how many producers are participating in the markets individually.

MOTION: Mr. Fred Ellrott moved to approve the proposed budget as submitted. Ms. Pompea Smith seconded. The motion passed unanimously.

ITEM 7: REGULATIONS

A.) Penalty Matrix-

Mr. Hall questioned the severity of selling non-agricultural products in a certified section of a certified farmers' market. Mr. Hall stated that there is a lack of distinction between value added items. Mr. Patton stated that there needs to be a distinction between non-agricultural products and certified products inside a certified farmers' market; there is nothing in the regulations about value added products. Mr. Patton stated the penalty matrix is based on current regulations. Mr. Kurt Floren stated that non-certifiable items include the term processed.

Mr. Jim Murez asked if there is a number of certified versus noncertified in a market. Mr. Floren stated that non-agricultural business is not part of the certified farmers' market; it is a contiguous, concurrent event. Discussion ensued regarding non-certifiable agricultural products being sold at a certified farmers' market.

Mr. Floren proposed amendments to the penalty matrix that include adding §1392.1e back into the regulatory package and clarifying the definition of a repeat violation.

MOTION: Ms. Saltsman moved to approve the penalty matrix with the proposed amendments. Mr. Ellrott seconded the motion. The motion passed unanimously.

B.) Remittance Form-

Mr. Patton stated that the sub-committee has been working to require more pertinent information on the remittance form and an online tool to calculate fees.

Ms. Leah Smith suggested adding a line on the remittance form that would require the market operator to indicate if the market is run by a local government, a non-profit organization, or a certified producer.

Mr. Murez inquired if page two on the remittance form will have an electronic version available and if CDFA will accept the remittance electronically. Mr. Patton stated that the remittance form will be made available online; the Department does not have the capability to receive it electronically at this time. However, Mr. Murez asked if the remittance form would be accepted if it was reproduced in an Excel spreadsheet. Mr. Patton stated that the regulations do not specify which form to submit it on; the remittance form does require a signature.

Ms. Weiss asked what CDFA will be doing with the information that will be captured on the revised remittance form. Mr. Patton stated that the information will be used for enforcement purposes; it will assist the Inspection and Compliance Branch in gaining knowledge of where people are selling and will enable CDFA to track producer information from market managers.

Mr. Russell Hall questioned why it will be required to list the non-certifiable products. Mr. Patton stated that he is frequently asked what is being sold at the markets' aside from fruits and vegetables. Mr. Patton stated that the non-certifiable products do not have to be listed by variety; it can be a general listing. Discussion ensued regarding proposed changes to the remittance form.

MOTION: Mr. Fred Ellrott moved to approve the remittance form as submitted. Ms. Nancy Pleibel seconded. The motion passed with two members opposed.

ITEM 8: COMPOST AND VERMICULTURE

Mr. Patton stated that he receives multiple inquires about compost being sold at a certified farmers' market. Vermiculture is allowed at this time; it is recognized as a growing industry and shall be encouraged. Mr. Patton inquired how the industry feels in regards to compost being sold at a certified farmers' market.

Mr. Russell Hall stated that there would be no way to track the source of the compost and asked if compost would be a non-certifiable product. Mr. Floren stated that compost meets the definition of non-certifiable, but it is not going to be enforceable.

Mr. Murez stated that there are health issues with compost and stated that he thinks the Health Department would question the issue.

Ms. Weiss stated that there are multiple types of composting and she does not think it would be a good idea at the farmers' markets. Discussion ensued in regards to selling compost and vermiculture at a certified farmers' market; the consensus of the committee was that it should not be allowed.

ITEM 9: DEFINITION OF OPERATOR

Ms. Leah Smith encouraged discussion of the definition of an operator and stated that the current language in the California Code of Regulations defining a non-profit organization is too vague. Ms. Smith informed the committee that Ms. Fei of Adler & Colvin will be attending this CFMAC meeting to assist the committee with proposed definitions for redefining a non-profit organization.

Ms. Fei provided the CFMAC with an overview of her background working with non-profit organizations. Ms. Fei stated that there is a phrase in the regulations which qualifies for non-profit status for California income tax status. Ms. Fei questioned why this definition is in the regulations. Ms. Fei encouraged the CFMAC to examine the intent of that regulation and stated that preventing abuse should drive drafting of regulations in general. Ms. Fei stated that in California, a non-profit organization is a type of legal entity; there are three types of non-profits. Ms. Fei proposed two alternative definitions that would redefine the current definition of non-profits. The first proposed definition is a simple revision and the second proposed definition is a complex revision with variables. Ms. Fei provided the committee with a handout with the proposed definitions and a proposed definition that is recognized by the Marin Agricultural Institute.

Ms. Leah Smith stated that this discussion has been very educational and hopes this issue will be looked into in a relatively short period of time in order to enable the CFMAC to clarify the definition of a non-profit organization.

Ms. Saltsman stated that the information presented by Ms. Fei in regard to the definition of a non-profit organization provides the committee with concrete information that will aid in narrowing avenues for abuse.

Mr. Frank Wells stated that the definition of a producer is critical to modify the definition of a non-profit organization. Mr. Wells stated that public perception of what a producer is needs to be defined.

Mr. Whitney suggested putting a moratorium on new markets while the definitions are being re-defined. Ms. Weiss stated she would oppose a moratorium because she would not like to stop new markets opening in until this is decided; that is not the purpose of this committee.

Mr. Etheridge stated that this issue has been discussed for a long time and the new information that Ms. Fei provided will assist the committee in a new level of discussion at some point in the future. Mr. Etheridge suggested forming a sub-committee to discuss this issue in detail; a sub-committee was formed. Sub-committee members include: Ms. Saltsman, Ms. Leah Smith, Mr. Etheridge, Ms. Weiss, Ms. Pompea Smith, and Mr. Hall.

Ms. Fei excused herself from the meeting. Mr. Patton thanked Ms. Fei for attending the meeting and assisting the CFMAC with proposed definitions of non-profit organizations.

ITEM 10: COMMITTEE POLICY II 2.8

Ms. Hicks reported that since committee policy 2.8 has been implemented on October 14, 2009, no member has missed three consecutive meetings.

ITEM 11: CHAIRMAN'S REPORT

Mr. Etheridge stated that he went to the Small Farm Conference in February 2010. Mr. Etheridge stated that the former president Mr. Moy will now be the treasurer and Ms. Greta Dunlap will be replacing Mr. Moy as President. The conference was very well attended and informative.

Mr. Etheridge stated that he has received phone calls from consumers who think the CFMAC is a regulatory group and can prevent certain issues from occurring at certified farmers' markets. Mr. Etheridge stated that there are situations occurring in the Central Valley including problems with non-profits and people not knowing who is in charge or who runs the markets. Mr. Etheridge encouraged the committee not to misinform the industry about what the CFMAC does.

Mr. Patton stated that there has been discussion regarding market manager certification; currently there is not enough funding. There is an organization trying to receive a grant to facilitate a market manager class. Ms. Weiss is looking for grants that would enable market managers to receive hands-on training as well.

ITEM 12: NEW BUSINESS

Ms. Pompea Smith stated that it would be helpful for ongoing education to be provided to keep the industry informed about quality and maturity issues. Mr. Etheridge stated that there is a possibility to incorporate some type of educational training into The Small Farm Conference. Ms. Weiss stated that Los Angeles has a yearly meeting for all market managers.

Mr. Murez stated he previously served on the CFMAC for eight years and 12 years ago he created an online web system. Mr. Murez stated he is applying for a grant that would enable him to create a web-based system that would allow load lists to be uploaded in a click. Market managers would be able to alter their market rules and require load lists to be completed on a particular form. The farmer would only have to go online one time and duplicate what is on their producer certificate in detail, and they could apply to all 227 markets in Los Angeles. Mr. Murez stated that several market managers have stated that if he can make it work in Venice, then they will do it. Mr. Murez stated that the grant is due tomorrow and requested letters of support.

ITEM 13: MEMBER ROUNDTABLE DISCUSSION

Mr. Lewis stated that he is happy to be part of this meeting, he learned a lot today, and will share the information with neighbors at his farmers' markets.

Ms. Weiss stated that she is happy to be back on the CFMAC and is pleased that action took place.

Mr. Silveira asked for an update on the light brown apple moth (LBAM) issue and stated that he is concerned about it being a potential threat. Mr. Patton stated that the current threats are now the Asian citrus psyllid and the European grapevine moth. Mr. Floren stated that CDFA indicated that aerial disbursement of pheromone, which had been the original approach, was not going to be part of the LBAM control program. The environmental impact report (EIR) acknowledges pheromone use, but the initiation of twist tie dissemination of the pheromone has not yet been initiated.

Mr. Wells stated that he is thankful to be part of the CFMAC and to be part of the process.

Ms. Leah Smith thanked the CFMAC for everything and stated she knows that this group has a lot of integrity.

Mr. Hall stated that a representative from The Health Department in San Luis Obispo County was looking at the non-agricultural section of a certified farmers' market and informed them that they will have to have a catch basin under their booth per the Water Quality Control Act. Mr. Hall asked the committee if this has happened to anyone else.

Mr. Patton stated that the water may contain pesticide residue. Some counties are enforcing it; it has nothing to do with The California Department of Food and Agriculture.

Ms. Pompea Smith stated that she feels this was a productive meeting and she is glad steps are being taken to improve direct marketing.

Ms. Annika Knoppel stated that she is thankful to be part of the CFMAC and stated that she receives twitter alerts from CDFA in regard to quarantine press releases if anybody has any questions.

Mr. Whitney stated he recommends sending in quarterly reports by certified or registered mail to ensure that CDFA receives them in a timely manner.

ITEM 14: NEXT MEETING/AGENDA ITEMS

Mr. Etheridge stated the next meeting will be the sub-committee meeting. The next regular CFMAC meeting is scheduled for September 29, 2010.

ITEM 15: ADJOURNMENT

MOTION: Ms. Wetzel Schott moved to adjourn the meeting. Mr. Lewis seconded. The meeting was adjourned at 3:37 p.m.

Respectfully submitted by:

Steve Patton, Compliance Chief
Certified Farmers' Market Program
Inspection Services