

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0069
(916) 319-2069
FAX (916) 319-2169

DISTRICT OFFICE
2400 E. KATELLA AVENUE, STE. 640
ANAHEIM, CA 92806
(714) 939-8469
FAX (714) 939-8986

e-mail: assemblymember.solorio@assembly.ca.gov
website: www.assembly.ca.gov/solorio

Assembly California Legislature



JOSE SOLORIO
ASSEMBLYMAN, SIXTY-NINTH DISTRICT

COMMITTEES
APPROPRIATIONS
EDUCATION
INSURANCE (CHAIR)
TRANSPORTATION

SELECT COMMITTEE
REGIONAL APPROACHES TO
ADDRESSING THE STATE'S
WATER CRISIS (CHAIR)

December 2, 2009

The Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol Building
Sacramento, CA 95814

Dear Governor Schwarzenegger:

I was one of the seventy-six Legislators in the Assembly who voted for Assembly Bill X4 22 in July as part of an effort to balance the 2009-2010 budget. Since then, numerous questions and disturbing facts have emerged that raise serious concerns about the proposed sale of the Orange County Fairgrounds.

Given the seriousness of the issues raised concerning the legitimacy of the process and activities surrounding the proposed sale, Assemblymember Van Tran and I held a public hearing on November 19 in Costa Mesa. The purpose was to gain a better understanding of the pending sale process and to gather public input. I learned that the process for carrying out this sale has been tainted by misinformation, misrepresentation, conflicts of interests, questionable legal and ethical activities, and that a potential constitutional barrier regarding the sale of the property exists.

As the Administration reviews this current sale process and contemplates future state property sales, it is important that it consider the issues that have surfaced to date. Below are major issues of contention that must be considered before further action is taken on the sale of the Orange County Fairgrounds:

Constitutionality of Assembly Bill X4 22

- Assembly Bill X4 22 authorized the sale of the Orange County Fairgrounds and further declared that the sale of the Fairgrounds does not constitute a sale or disposition of state surplus property within the meaning of Section 9 of Article III of the California Constitution. A recent consult with Legislative Counsel indicates that a statute may not amend the California Constitution. Thus, the validity of this statutory declaration, which effectively allows use of the proceeds from the sale of the Fairgrounds for any state purpose, may be invalid. Assuming that the Fairgrounds was purchased with General Fund monies or with bonds secured by the General Fund, proceeds from the sale of the property must only be

used to pay principal and interest on outstanding Economic Recovery Bonds. Use of the proceeds of sale for any other purpose, including meeting current annual budget obligations, violates the California Constitution.

Assessment of Property Value

- Even if the sale of the fairgrounds withstands a constitutional challenge, there is still an outstanding question as to whether the sale of the property will generate the \$96 to \$180 million that was estimated. What we do know is that the original \$96 to \$180 million dollar estimated value appears to be based on unsubstantiated development opportunities for the site. However, given the continuing weakness in the real estate market, the City of Costa Mesa's opposition to the sale of the property and its new efforts to further restrict the zoning of the property, potential bids for the property most likely will be nowhere near the estimated purchase price. The state's Department of General Services (DGS) has not conducted an appraisal of the property and staff admitted during our public hearing that they have no idea what to expect as a reasonable bid. As noted in the attached letter, DGS believes that Costa Mesa's pending zoning restrictions will greatly diminished the property's anticipated value.

Recent publicized meetings and actions by the City of Costa Mesa and County of Orange to consider resolutions asking that the state stop the sale of the OC Fairgrounds are also serving as a deterrent to receiving responsible bids for the property. Copies of the resolutions passed by those two local governments are attached.

Future of Fairground State Employees

- The impact of the sale on OC Fairground state employees was never raised during the debate on the legislation, now leaving many unanswered questions about their future. Approximately 100 state employees work at the OC Fairgrounds. Given the conditions set in the Request for Proposals, the Orange County Fair would operate during the summer of 2010, but after that there may be no more work for the employees. Had the Legislature been made aware that this was the intent of the Administration, I doubt the legislation would have been approved in its current form.

Conflict of Interest and Ethical Concerns

- There have been allegations that the Orange County Fair Board (a public board appointed by the Governor), which oversees the state-owned Orange County Fairgrounds, has violated Government Code Section 1090 and the Bagley-Keene Open Meeting Act by forming a private foundation to bid on the property. Six of the current Orange County Fair Board members make up the majority vote of the new, private Orange County fair foundation board. Charges of improprieties by the current Orange County Fair Board are leaving some potential buyers on the sidelines. The perception in Orange County is that "insider" information will give the Orange County Fair Boardmembers' "foundation" an unfair competitive edge in the bidding process. Further complicating this dynamic is that the state's and Orange County Fair Board's interest is to receive the highest possible bid amount,

while it is in the interest of the private foundation to buy the fairgrounds for the least possible amount. Thus, the involvement by the Orange County Fair Board, and its executive staff and hired consultants, in collaborating with DGS to develop the terms of the Request for Proposals and the bidding process has been inappropriate.

- In a November 13, 2009 letter of response to Orange County Counsel Nicholas Chrisos's request for an examination of the questionable actions of the Orange County Fair Boardmembers, Gary Schons, State Senior Assistant Attorney General said, "It would be inappropriate for this office to launch a criminal investigation into the matters raised in your letter given that this office represents the board." Mr. Schons then went on to say the investigation request is within the jurisdiction of Orange County District Attorney Tony Rackauckas. District Attorney Rackauckas is now investigating the matter. In the event that there are any criminal implications, as Governor, surely you would want to wait to learn the results of the investigation before continuing with the sale.

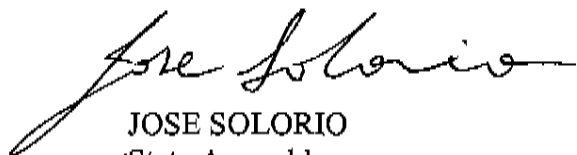
For the reasons I have stated above, I am convinced that the State of California has not positioned itself to maximize the price of this particular sale, nor is it setting best practices for future transactions. In fact, I believe the circumstances have been set to encourage low bids and discourage private sector bids (with the exception of the private non-profit fair foundation that your political appointees have created).

I strongly request that you stop the current process to sell the Orange County Fairgrounds. Under the current circumstances, it is not in the best interest of California or Orange County to sell this valuable property.

Consistent with this request, I have also introduced legislation today which would repeal the section of Assembly Bill X4 22 related to the sale of the Orange County Fairgrounds, and plan to conduct additional hearings in Orange County and Sacramento on the process if the sale is not stopped.

Should you want to discuss this with me in greater detail, I welcome the opportunity to talk with you. I will follow up with your office to further discuss this matter and I thank you for your consideration.

Sincerely,



JOSE SOLORIO
State Assemblyman

Enclosures: DGS Letter to City of Costa Mesa
City of Costa Mesa Resolution Requesting Sale be Stopped
County of Orange Resolution Requesting Sale be Stopped
Letter to and from the Attorney General's Office

cc: The Honorable Karen Bass, Speaker, California Assembly
The Honorable Darrell Steinberg, President Pro Tem, California Senate
The Honorable Jerry Brown, California State Attorney General
The Honorable Denise Ducheny, Chair, Senate Budget Committee
The Honorable Christine Kehoe, Chair, Senate Appropriations Committee
The Honorable Noreen Evans, Chair, Assembly Budget Committee
The Honorable Kevin De León, Chair, Assembly Appropriations Committee
Orange County Board of Supervisors
Costa Mesa City Mayor and Councilmembers
The Honorable Tony Rackauckas, Orange County District Attorney
Orange County Fair Board Members
Fair Practices Political Practices Commission Members
Mr. Ron Diedrich, Acting Director, California Department of General Services

10/23/2009 15:25 FAX 3765018

DGS_EXECUTIVE

001/001



State of California • Arnold Schwarzenegger, Governor
State and Consumer Services Agency

DEPARTMENT OF GENERAL SERVICES

Executive Office

707 Third Street • West Sacramento, CA 95605 • (916) 376-5000 • Fax (916) 376-5018 • www.dgs.ca.gov

October 23, 2009

The Honorable Allan Mansoor, Mayor
City of Costa Mesa
777 Fair Drive
Costa Mesa, CA 92626

Dear Mayor Mansoor and Costa Mesa City Council Members:

I understand the Costa Mesa City Council recently heard its staff recommendation on the "Consideration of the preparation of a Specific Plan" for the Orange County Fairgrounds. I also understand the City Council directed staff to prepare a Specific Plan for the Fairgrounds that designates the property solely for "fairground" use. Adopting this Specific Plan will severely restrict the future land uses available to potential buyers, and I'm writing to share some of my concerns about the City's action.

As you know, the Legislature has added sections 3884.1 and 3884.2 to the Food and Agriculture Code, which authorize the Department of General Services (DGS) to sell the Fairgrounds. DGS is now actively seeking proposals to obtain the highest return on the property, as the Legislature directed us to do.

We are concerned that the Fairgrounds' commercial value will be negatively affected by preparing and adopting the Specific Plan. While we are, of course, sensitive to local matters, we also need to be sensitive to the economic consequences that could result from this action. We also need to carry out the Legislature's direction to "obtain the highest, most certain return" from the sale of the Fairgrounds.

Under these circumstances we request that the City thoroughly consider the State and local economic ramifications that could result from preparing and adopting the Specific Plan, and refrain from taking any further action that could reduce or otherwise negatively impact the Fairgrounds' value. But if the City moves forward with the Specific Plan and the Fairgrounds' value is diminished, the State will consider whatever options may be available to preserve the Fairgrounds' value. We believe this shouldn't be needed, and that the State and City can work cooperatively to achieve the Legislature's goal in a way that furthers the City's interests as well.

Please feel free to contact me if you would like to discuss this matter further. I can be reached at 916.375.4051 or via email at Teresa.Bierer@dgs.ca.gov.

Sincerely,

A handwritten signature in black ink that reads "Teresa Bierer".

Teresa Bierer, Acting Deputy Director
Real Estate Services Division

cc: Allan Roeder

RESOLUTION NO. 09-41

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, OPPOSING THE SALE, CLOSURE AND/OR RELOCATION OF THE ORANGE COUNTY FAIR AND EVENT CENTER BY THE STATE OF CALIFORNIA.

THE CITY COUNCIL OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, the Governor of the State of California proposes measures to allow the state to take better advantage of its real estate assets in order to balance the state budget and improve government efficiency; and

WHEREAS, the Governor has determined that utilizing state assets, along with reducing the state workforce and making government more efficient through various measures will help achieve savings within state government and reduce the multi-billion dollar budget deficit; and

WHEREAS, the Governor is proposing the sale of seven, state-owned properties to reduce the budget deficit by over \$1 billion; and

WHEREAS, the Orange County Fair and Event Center (OCFEC) is among the seven state-owned properties listed in the Governor's proposal, with the others being Cal Expo, Del Mar Fairgrounds, Ventura County Fairgrounds, Los Angeles Coliseum, San Quentin State Prison and the Cow Palace; and

WHEREAS, the City of Costa Mesa opposes sale for redevelopment, closure and/or relocation of the OCFEC by the Governor for many reasons; and

WHEREAS, the OCFEC is a major entertainment, recreational, cultural and educational asset to Orange County with over 100 events held there annually supporting cultural and non-profit organizations; and

WHEREAS, the proposed sale of the OCFEC is extremely short-sighted in that the OCFEC and the weekend Orange County Marketplace provide employment to thousands of individuals of all ages, nurture small business development, and promote the transaction of business which, in turn, greatly assists the local and state economy and generates incomes tax proceeds of over \$180 million to the state; and

WHEREAS, resounding opposition by an outpouring of public response to the California Performance Review in 2004 sent a clear message to the State Legislature and the Governor and the City of Costa Mesa believes the current proposal will be met with similar public reaction.

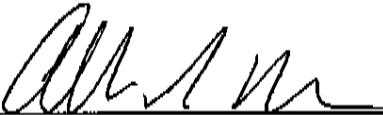
NOW, THEREFORE, BE IT RESOLVED, that based on the preceding, the City Council hereby opposes the Governor's proposal to sell the Orange County Fair and Event Center and also opposes any proposals by the State to relocate or close the facility in order to reduce the state's budget deficit.

BE IT FURTHER RESOLVED that the City Council encourages its residents and members of the business community to contact the Governor and members of the State Legislature and demand they remove the Orange County Fair and Event Center from the proposed list of state properties to be sold.

BE IT FURTHER RESOLVED that the City Council hereby authorizes the Mayor, Mayor Pro Tem, any member of the City Council and City staff to represent the City's position on this matter.

BE IT FINALLY RESOLVED that copies of this resolution be submitted to the Governor and State Legislative representatives.

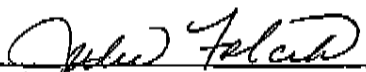
PASSED AND ADOPTED this 2nd day of June, 2009.



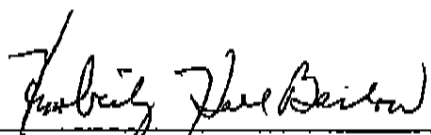
Allan R. Mansoor, Mayor

ATTEST:

APPROVED AS TO FORM:



Julie Folcik, City Clerk



Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
 COUNTY OF ORANGE) ss
 CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. 09-41 and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 2nd day of June, 2009, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS: MANSOOR, LEECE, BEVER, FOLEY, MONAHAN
 NOES: COUNCIL MEMBERS: NONE
 ABSENT: COUNCIL MEMBERS: NONE

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 3rd day of June, 2009.



 JULIE FOLCIK, CITY CLERK

(SEAL)



COUNTY OF ORANGE
BOARD OF SUPERVISORS

ROBERT E. THOMAS HALL OF ADMINISTRATION
333 W. SANTA ANA BLVD.
10 CIVIC CENTER PLAZA
SANTA ANA, CALIFORNIA 92701

November 24, 2009

Honorable Jose Solorio
California State Assembly
State Capitol, Room 2196
Sacramento, CA 95814

Dear Assembly Member Solorio:

On Tuesday, November 24, the Orange County Board of Supervisor passed a resolution requesting that Governor Schwarzenegger immediately cancel the sale of the Orange County Fairgrounds.

On July 28 of this year, the Board a passed resolution in support of the proposal to sell the Orange County Fairgrounds, only if the sale provided that the Fairgrounds would be sold to a local government agency or local not-for-profit corporation to *perpetuate* its use as a fairgrounds, event center, and equestrian facility.

However, when the State's Request for Proposals for the sale of the Fairgrounds was released, the Request for Proposals did not require the buyer to be a local government agency or local not-for-profit, nor did it require the buyer to perpetuate the utilization of the property as a fairgrounds, event center, and equestrian facility.

The resolution also respectfully calls upon all other cities in Orange County to join with the City of Costa Mesa and County of Orange in formally requesting of the Governor that the proposed sale of the Orange County Fairgrounds be cancelled immediately.

For your review, a copy of the Board's resolution is enclosed.

Sincerely,

Handwritten signature of John M. W. Moorlach in black ink.

John M. W. Moorlach
Supervisor, Second District

Handwritten signature of Bill Campbell in black ink.

Bill Campbell
Supervisor, Third District

cc: Governor Arnold Schwarzenegger
Fred Aguiar, Office of the Governor
Scott Reid, Office of the Governor
Members, Board of Supervisors
Members, State Legislative Delegation
City Mayors, Orange County Cities
Thomas G. Mauk, County Executive Officer

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

November 11, 2009

WHEREAS, the first Orange County Fair occurred in 1890 and has since thrived as a "Celebration of Orange County's Communities, Interests and Heritage" as is stated in the Orange County Fair and Event Center mission statement; and

WHEREAS, as a result of the State of California's budget deficit of over \$26 billion, the largest in the state's history, Governor Arnold Schwarzenegger proposed the sale of surplus or underutilized assets for the purpose of helping to close the budget deficit; and

WHEREAS, on July 28, 2009 the Orange County Board of Supervisors passed Resolution # 09-110, in support of Governor Schwarzenegger's proposal to sell the Orange County Fairgrounds, only if the sale provided that the Fairgrounds would be sold to a local government agency or local not-for-profit corporation to *perpetuate* its use as a fairgrounds, event center, and equestrian facility; and

WHEREAS, on October 7, 2009, the California Department of General Services released a Request for Proposals for the sale of the Orange County Fairgrounds; and

WHEREAS, the Request for Proposals does not require the buyer to be a local government agency or local not-for-profit, nor does it require the buyer to perpetuate the utilization of the property as a fairgrounds, event center, and equestrian facility; and

WHEREAS, the Orange County Fairgrounds is the only asset of its kind the State is actually proposing to sell and relinquish control over; and

WHEREAS, the Orange County Fairgrounds are wholly contained within the corporate limits of the City of Costa Mesa; the City of Costa Mesa's General Plan designates the property as "Fairgrounds"; the City of Costa Mesa has zoned the property "recreational/institutional"; and

WHEREAS, the Costa Mesa City Council has authorized preparation of a Specific Plan for the Fairgrounds property and subsequently directed staff to prepare a ballot initiative for the June 2010 ballot for voter approval of a land use restriction to "Fairgrounds"; and

WHEREAS, the Orange County Board of Supervisors believes that it is the best interests of the public that the Governor immediately cancel the sale of Fairgrounds property;

NOW, THEREFORE, BE IT RESOLVED THAT THE ORANGE COUNTY BOARD OF SUPERVISORS does hereby request that Governor Schwarzenegger immediately cancel the sale of the Orange County Fairgrounds; and

FURTHER BE IT RESOLVED, THAT THE ORANGE COUNTY BOARD OF SUPERVISORS, does hereby respectfully call upon all other cities in Orange County to join with the County of Orange and the City of Costa Mesa in formally requesting of the Governor that the proposed sale of the Orange County Fairgrounds be cancelled immediately.

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on November 24, 2009, to wit:

AYES:	Supervisors:	JOHN M. W. MOORLACH, BILL CAMPBELL, JANET NGUYEN PATRICIA BATES
NOES:	Supervisor(s):	
EXCUSED:	Supervisor(s):	CHRIS NORBY
ABSTAINED:	Supervisor(s):	



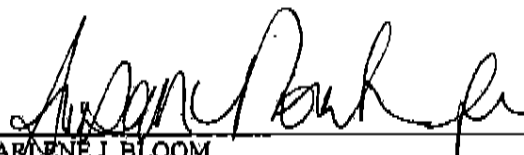
 CHAIRMAN

STATE OF CALIFORNIA)
)
 COUNTY OF ORANGE)

I, DARLENE J. BLOOM, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chairman of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors .

IN WITNESS WHEREOF, I have hereto set my hand and seal.





 DARLENE J. BLOOM
 Clerk of the Board
 County of Orange, State of California

Resolution No: 09-180
 Agenda Date: 11/24/2009
 Item No: S49A



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors , Orange County, State of California

DARLENE J. BLOOM, Clerk of the Board of Supervisors

By: _____
Deputy



THE COUNTY COUNSEL
COUNTY OF ORANGE

333 W. SANTA ANA BLVD., SUITE 407
SANTA ANA, CA 92701
MAILING ADDRESS: P.O. BOX 1379
SANTA ANA, CA 92702-1379
(714) 834-3300
FAX: (714) 834-2359

Direct Dial No.:
(714) 834-3303

October 30, 2009

NICHOLAS S. CHRISOS
COUNTY COUNSEL
JACK W. GOLDEN
CHIEF ASSISTANT
JEFFREY M. RICHARD
SENIOR ASSISTANT
BARBARA LARKIN STOCKER
ASSISTANT

THOMAS F. MORSE
WANDA S. FLORENCE
HOPE E. SNYDER
SHERIE CHRISTENSEN KEOUGH
ADRIENNE SAURO HECKMAN
KAREN R. PRATHER
GEOFFREY K. HUNT
CHRISTOPHER J. MILLER
DANIEL P. TORRES
JOHN H. ABBOTT
MICHELLE L. PALMER
JANELLE B. PRICE
ANN E. FLETCHER
MARGARET E. EASTMAN
DANA J. STITS

MARIANNE VAN RIPER
JAMES C. HARMAN
JULIE J. AGIN
LAURENCE
DANIEL H. HARRIS
JOY
PAULA
THOMAS A. MILLER
STEVEN C. MILLER
CAROLYN S. FROST
ROBERT N. ERVAIS
BETH L. LEWIS
LAURA D. KNAPP
ROGER P. FREEMAN
NICOLE A. SIMS
NIKIL G. DAFTARY
JEANNIE SU
JAMES C. HARVEY
MARK B. HOWE
WENDY J. PHILLIPS
TERI L. MAKSOUDIAN
LEON J. PAGE
ANGELICA CASTILLO DAFTARY
KAREN L. CHRISTENSEN
MICHAEL A. HAUBERT
RYAN M. F. BARON
BRAD B. POSIN
SAUL REYES
AURELIO TORRE
MARK D. SERVINO
DEBBIE TORREZ
JACQUELINE GUZMAN
ANDREA COLLIER
PUNAM P. PRAHALAD
PAUL M. ALBARJAN
D. KEVIN DUNN
LORI A. TORRISI
MASSOUD SHAMEL
SHARON DUBBIN CHERNEY
REBECCA S. LEEDS
NICOLE M. WALSH
MARISA MATSUMURA
ELIZABETH A. PEJEAU
LAUREN C. BAUER
GABRIEL J. BOWNE
JULIA C. WOOD
LAUREL M. HAFER
MARK

Gary Schons, Esq.
Office of the Attorney General
Post Office Box 85266
San Diego, California 92186-5266

Dear Mr. Schons:

This letter is to request that you examine the July 29, 2009 action of the Orange County Fair Board outlined in the attached minutes. It appears that this action may violate Government Code section 1090 and the Bagley-Keene Open Meeting Act.

Government Code section 1090

I have been informed that the contracts referenced in Agenda Item 7 of the minutes were (1) with the law firm of Nossaman, Guthner, Knox and Eliot [hereinafter "Nossaman"] and (2) with former State Senator Dick Ackerman. I am informed that the contracts were designed to lobby the Governor's office in formulating the terms and conditions of the RFP to be issued by the State pursuant to AB 4X 22, which authorizes the sale of the Orange County Fairgrounds.

I am further informed that the Nossaman firm assisted a number of members of the Fair Board in forming a foundation (the "OC Fair and Event Center Foundation"), a non-profit entity, whose Board members were anticipated to include a number of members of the current Fair Board. The Foundation was incorporated on July 21, 2009—eight days before the consulting contract was approved by the Fair Board. I am further informed that the law firm Jones Day prepared the articles of incorporation and other documents for the non-profit.

I question whether the Fair Board's decision to use Fair Board funds for a lobbying or similar contract in connection with the formation of the contract or influencing the RFP process represents personal influence by Board members who are prospective foundation members, and who thus would have a direct personal interest in the outcome of the RFP process.

An official's interest need not be direct. *People v. Darby*, 114 Cal. App. 2d 412, 250 P2d 743 (1952). This interest is indirect, in that the contract would facilitate the acquisition, as opposed to this being a contract of acquisition.

Gary Schons, Esq.
October 30, 2009
Page 2

Here, it appears that the Fair Board utilized public funds to engage a firm to influence the design of the RFP so it would best suit the anticipated Foundation bid. Since several members of the Fair Board were also going to be on the Foundation Board, and the Foundation was incorporated as a private, non-profit entity (and not a government entity), this expenditure of public funds for a contract with the Nossaman firm was a contract that would aid the personal interests of those members. Indeed, if the Foundation were to succeed in its bid, it would both own the fairgrounds and operate the Fair and other events at the fairgrounds. If past practice holds, members of the Foundation Board would enjoy some (even if minimal) perquisites, such as free tickets to the Fair, parking passes, etc. Those are financial interests. Thus, the contract is one in which the members have an indirect financial interest, which might violate Government Code Section 1090. If this contract is illegal, it is void—it is null and of no effect, not merely voidable. Public funds cannot be used to pay this contract.

Bagley-Keene Open Meeting Act

In addition, it appears that the Fair Board may have violated the Bagley-Keene Open Meeting Act. The July 29, 2009 agenda for Item 7 states as follows:

"7. GOVERNANCE PROCESS:

A. Governors Initiative to Sell Orange County Fair & Event Center Action Item"

I do not believe this description gave fair notice to the public pursuant to Government Code section 11125(b). The minutes also fail to properly describe the actions taken by the Fair Board, in that there was no notice given that the Fair Board was considering authorizing the consulting agreements discussed above.

I request that you examine these issues.

Additionally, please advise me whether it is acceptable for members of the Orange County Board of Supervisors and/or County employees to meet with members of the Fair non-profit for the purpose of possibly joining it in preparing a bid for the fairgrounds. There is concern that meeting with those members might itself be a violation of Government Code section 1090.

Thank you very much for your consideration of this request.

Very truly yours,



Nicholas S. Chrisos
County Counsel

NSC:nr:eb
Enclosures

OC FAIR & EVENT CENTER, 32ND DAA
MINUTES OF THE BOARD OF DIRECTORS MEETING
JULY 29, 2009, PAGE 3 OF 7

ACTION: Director Dykema motioned and Director Hayakawa seconded to approve the Consent Calendar. **CARRIED**

7. GOVERNANCE PROCESS:

**A. Governors Initiative to Sell OC Fair & Event Center
Action Item**

Director Ellis presented the item. The state budget process was difficult and the legislature in AB-22X included the sale of OCFEC as underutilized or surplus property.

Ellis stated that as a result of this legislation, the OCFEC Board of Directors cannot enter into any long term contracts that encumber the property. However, this does not include the Sheriff's contract that is only for the next calendar year and was already negotiated and approved in June but ratified by the board at this meeting as part of the Consent Calendar.

In the next 30 days, there will be a series of communications between the Department of General Services and OCFEC staff that will outline the RFP process that will describe the terms and conditions of the sale. There will be an approximate 60-90 day bidding process.

Ellis expressed a desire to maintain the property as a fairgrounds. Ellis suspects that this will be a 6 month process but there is no guarantee that the property will be sold.

Chair Vandermost stated that the Board has had to react very quickly and the Board's desire is to see local control of the property to eliminate the dark cloud of state budget issues. It is the desire of the Board to remove the fair from state control to eliminate such issues as the recent furlough.

Vice Chair Dodge stated that she completely agrees with Ellis' desire that the property continues to operate as a fairgrounds.

Director Young stated that the Board respects the employees and thinks that the employees are the main ingredients to the success of the Fair.

OC FAIR & EVENT CENTER, 32ND DAA
MINUTES OF THE BOARD OF DIRECTORS MEETING
JULY 29, 2009, PAGE 4 OF 7

Dodge stated that while the Board was appointed as stewards, they are proud and supportive of staff and could not run the Fair in such as manner as the current staff.

Director Hayakawa stated that in the time he has been on the Board he has gotten to know many of the employees and wants to keep the organization intact as much as possible.

Mike Davis, Fair vendor since 1981, asked whether part of of the property can be sold off to pay off the debt incurred in the purchase instead of passing on the costs to vendors.

Robert Fremont, Fair vendor since 1999, feels that it may be a prudent decision to slow down the process.

Charlie Boghoslan (Chicken Charlie), who has worked at the Fair since 1984, is worried about the sale of the property. How is selling the property going to have any impact the state budget? And turning the property over to a non-profit is a risky proposition. He stressed them importance of the Fair to the community by providing jobs and other opportunities.

Bob Jackson, Fair vendor for 39 years, said that the problem is that no one knows what the right decision is. The Fair vendors contribute to the community at large and until they know what is at risk he doesn't want to proceed with the sale.

Steve Crutchfield, stated that he feels like he is preaching to the choir. Fairs are more than the sum of their parts, tangible and intangible. He stated that we sometimes lose track of the fact that the Fair is a community service. Crutchfield asked whether the Board is considering buying the Fair?

Jeff Thornberry, Fair vendor since 1982, is impressed by the buy-in from stakeholders that allows the OC Fair to be great. The community owns that Fair since they are responsible for its success. He suggested that we go to Sacramento and let them know that too much is at stake and the cost is too high.

Director Ellis responded that Assemblyman Van Tran has stated that if the sale results in the property not being a fairground, he will introduce legislation voiding the sale. Ellis doesn't believe the Governor wants to do anything that will upset the community and all the fine work that has gone into making this the best Fair in California.

OC FAIR & EVENT CENTER 32nd OAA
MINUTES OF THE BOARD OF DIRECTORS MEETING
JULY 29, 2009, PAGE 5 OF 7

Ellis also stated that the Board cannot emphasize enough the relationship with the City of Costa Mesa and how they are supportive of OC FEC's mission.

Chair Vandermost stated that putting the Fair under local control will eliminate being subject to the whims of the state budget process.

Robert Hutchins, Fair vendor for 25 years, is concerned about what will become of the staff, concerned about debt services, why do we want to throw self sufficiency out the window, does the Board want to buy the property?

Director Ellis stated that the State of California makes the decision of who the buyer is and the Board has no say in who purchases the property.

Dave Lindsey, vendor for 30 years, asked whether the Board wants to form a non-profit to run the Fair? What if high bidder comes in and doesn't want to keep it status quo? Is the City of Costa Mesa really committed to keeping it zoned as a fairgrounds?

Mayor Mansoor stated that the City is dedicated to keeping the property zoned as institutional and recreational.

Mike Coffey, major concern is where the public stands on this issue. Is there a survey question about the sale of the property? This is the public's heritage and they have the most to lose? Has OC FEC asked the public?

Steve Beazley stated that the Daily Pilot has done two online polls regarding the sale of property. Mesa Del Mar in June asked staff what they could do to help.

Director Dykema stated that in 2003 during public hearings, everyone came out in support of the Fairgrounds.

Vandermost stated that the point is to keep local control of the Fair.

Coffey asked whether anyone had approached the state about donating the property to the local community.

Memory Rose, representing year round events, isn't sure they can make a living if the property is sold, concerned about their May event and whether they can start planning their May event, and how soon will they know and how will it affect year round events.

OC FAIR & EVENT CENTER, 32ND DAA
MINUTES OF THE BOARD OF DIRECTORS MEETING
JULY 29, 2009, PAGE 8 OF 7

Director Ellis mentioned that the state provision prevents OC FEC from entering into any long term agreements and suggested that staff and counsel work with Sacramento to figure out how to conduct long term planning and business.

Steve Beazley, President & CEO, stated that lose of year round business will harm the viability for the organization.

Sandra Genis, former Mayor Costa Mesa, voiced concern about the lose of open meeting laws, contrasted our situation with Del Mar who fought to preserve their status, and suggested a partnership between the fairgrounds and the City of Costa Mesa.

Don Tucker, stated that the equestrian center needs to stay part of the fairgrounds.

David Stiller, resident of Costa Mesa, stated that the Board needs to keep the process as transparent has possible. He stressed that the Board does not act hastily. Explain the options. Do the voters have the right to refuse the sale? He suggested that the Board sit on the dais and invite the Costa Mesa TV to broadcast the meeting if they hold it at City Hall again.

ACTION: Vice Chair Dodge motioned and Director Dykema seconded to authorize staff to retain necessary consultants to assist in carrying out the Governor's and Legislature's intent, and also that the Board direct Director Ellis and Vice Chair Dodge as members of the Governance Subcommittee to coordinate these efforts with the CEO. **CARRIED**

7. CEO'S OPERATIONAL UPDATE

Beazley stated that OC Fair is starting their third Wednesday and look forward to a strong ending to the Fair. Good shows, good exhibit and a really strong ending to the Fair.

8. EXECUTIVE SESSION (CLOSED TO PUBLIC)

None.

9. BOARD OF DIRECTORS MATTERS OF INFORMATION

None.

10. NEXT BOARD MEETING: AUGUST 27, 2009

NS

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



110 WEST A STREET, SUITE 1100
SAN DIEGO, CA 92101
P.O. BOX 85266
SAN DIEGO, CA 92186-5266

Public: (619) 645-2001
Telephone: (619) 645-2275
Facsimile: (619) 645-2271
E-Mail: Gary.Schons@doj.ca.gov

November 13, 2009

Nicholas S. Chrisos
County Counsel
County of Orange
P.O. Box 1379
10 Civic Center Plaza
Santa Ana, CA 92702

RE: Orange County Fair Board---Government Code, section 1090 and Bagley-Keene Opening Meeting Act, Government Code, section 11120 et seq.

Dear Mr. Chrisos:

I am writing in response to your letter to me dated October 30, asking that we "examine the July 29, 2009, action of the Orange County Fair Board outlined in the attached minutes [as] [i]t appears that this action may violate Government Code section 1090 and the Bagley-Keene Open Meeting Act." I read your letter as requesting an investigation of possible criminal violations of these two laws. (See, Gov. Code, § 1097; Gov. Code, § 11130.7.) For the reasons stated in this letter, I am declining your request to examine or investigate this matter.

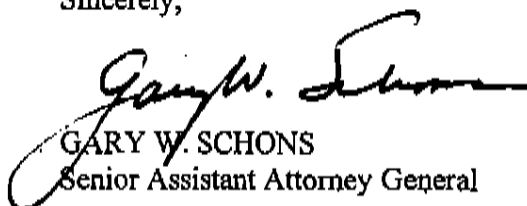
First, the Attorney General serves as counsel for the Orange County Fair Board, also known as the Board of Directors of the 32nd District Agricultural Association. It would be inappropriate for this office to launch a criminal investigation into the matters raised in your letter given that this office represents the board. Second, the District Attorney, and not the Attorney General, has primary responsibility for the investigation and prosecution of crimes occurring in the county. (Gov. Code, § 26500.) Accordingly, you may bring this matter to the attention of the District Attorney.

I have referred a copy of your letter to our Natural Resources Section, which represents the board, and I understand that the attorneys in that section, who provide counsel to the board, are aware of the issues raised in your letter.

Nicholas S. Chrisos
November 13, 2009
Page 2

Thank you for bringing this matter to our attention.

Sincerely,



GARY W. SCHONS
Senior Assistant Attorney General

For EDMUND G. BROWN JR.
Attorney General

GWS: clh