

**KIWIFRUIT ADMINISTRATIVE COMMITTEE**  
**Meeting Minutes**  
**July 12, 2011 – 1:00 p.m.**

**Double Tree Hotel**  
**1150 Ninth Street**  
**Modesto, CA 95354**

**1. Call to Order**

Chairperson Kliewer called the meeting to order at 1:15 p.m.

**2. Roll Call**

Roll call was taken. In attendance were:

<u>District</u>	<u>Seat</u>	<u>Member</u>	<u>Alternate Member</u>
1	1	Bill Lavell	Jim Sanderson
1	2	Clyde Litchfield	Mike Noland
1	3	Gary Carlin	-
1	4	Tom Schultz	Doug Wilson
2	1	Sherod Craig	John Yohannes
2	2	Jerry Kliewer	Vacant
2	3	Cindy Myers	Dale Rowden
2	4	Sean Lawson	-
2	5	Vacant	Vacant
3	1	Jane Criswell	-
3	2	John Fagundes	T.A. Heckel
		Public Member	-
		KAC Manager	Chris Zanobini

Absent were: David Barry (Alt. Member District 1, Seat 3), Peter Albiez (Alt. Member District 2 Seat 4), and Kurt Cappelluti (Alt. Member District 3, Seat 1).

Also present: Nick Matteis (KAC), Barbara Windmiller (KAC), Kathie Notoro (USDA AMS Fresno Office), Ed Brown (CDFA, Shipping Point Inspection), Hillary Brick (CKC), Waine Aalto (CKC), Gary Suthers (CKC), Joe Fischer (Etchegaray Farms).

**ESTABLISHMENT OF A QUORUM**

Mr. Kliewer established that there was a quorum and moved to the next order of business.

## **APPROVAL OF MINUTES – March 17, 2011**

A motion was made by Mr. Litchfield to approve the March 17, 2011 minutes, seconded by Gary Carlin and the motion was unanimously passed.

## **MANAGERS REPORT**

Mr. Matteis reported on the current numbers for the total crop stating that the total shipments to date were 8.4 million tray equivalents. He added that KAC staff had completed many of the year end reconciliations and were expecting to have them completed with the next month. He continued to report on the nominations and approval of the selection order and stated that nominations had recently been completed and the selection order was submitted to the Secretary of Agriculture for signature to confirm the new members. Mr. Matteis said that staff engaged in numerous outreach efforts as directed by the Ad Hoc Subcommittee on Outreach and Diversity through the Diversity Plan it had developed.

Mr. Matteis provided a brief update on the wind down of the California Kiwifruit Commission.

## **USDA REPORT**

Ms. Notoro reported that the selection order had moved forward and all of the questionnaires had been submitted. She thanked the KAC staff for their attention to and development of a diversity plan and emphasized the importance of the documentation of those efforts.

Mr. Zanobini asked if the new board members would be selected within the next month.

Ms. Notoro replied that she could not say whether the selection order would be signed by then.

Ms. Notoro provided a CAMFO update and stated that there had recently been significant turnover with USDA CAMFO employees and noted that she expected to be with CAMFO for many years.

Mr. Brown provided a brief update on Shipping Point Inspection fees and said that Shipping Point Inspection had reduced hourly and package fees by 10%. He said that the fee reduction was made for a one year period at which point the fees would again be reviewed.

## **AD HOC SUBCOMMITTEE ON OUTREACH AND DIVERSITY REPORT**

Mr. Matteis reported that the Ad Hoc Subcommittee met and discussed the diversity report and discussed any additions for outreach efforts. He noted that though the diversity plan had not yet been approved that staff followed the plan during the recent nominations period.

Mr. Kliewer called for a motion to approve the Diversity Plan as developed by the subcommittee.

Mr. Fagundes made a motion to approve the Diversity Plan, seconded by Mr. Lawson and the motion unanimously passed.

Ms. Notoro noted that it was important for the KAC to keep the diversity plan updated as proper administration.

## **APPROVAL OF 2009/10 ANNUAL REPORT**

Mr. Matteis reported that the KAC had not submitted the annual report in the season past and noted that staff had prepared the report for the board's approval.

Mrs. Myers made a motion to approve the 2009/10 Annual Report, seconded by Mr. Lawson and the motion unanimously passed.

## **APPROVAL OF 2011/12 MARKETING POLICY STATEMENT**

Mr. Matteis briefly summarized the contents of the marketing policy statement. He noted that the marketing policy statement was available to any members of the industry that were interested.

A motion to approve the 2011/12 Marketing Policy Statement was made by Mrs. Criswell, seconded by Mrs. Myers and the motion unanimously passed.

## **PROJECTED 2011/12 CROP**

Mrs. Windmiller reported that total producing acres were approximately 3,880 and added that there was still gold acreage grafted back to green production still coming into full production as well a new planted acreage. She said that there had been more packable fruit counted compared to the 2010/11 crop year. She said that most fields had already been thinned and that all of the gold acreage had been grafted back to green production.

In the north, Mrs. Windmiller reported that the overall fruit set was lighter than the 2010/11 crop year but packable fruit was estimated to be very similar to the 2010/11 crop year. She stated that in both the north and south growing regions the average packable fruit counts were increasing due to greater attention to cultural practices and the gold vines grafted back to green production.

Mr. Matteis added that the estimated total crop of 7-8 million tray equivalents was based on a conservative average size of 39-36 as it was difficult to know how the fruit would size at the time of year the preliminary estimate was performed. He noted that the budget was based on a total crop of 6.8 million tray equivalents.

It was discussed that the KAC adjust its total crop estimate to 7.5 million tray equivalents.

A motion to set the 2011/12 total crop estimate at 7.5 million tray equivalents was made by Mr. Carlin, seconded by Mr. Lawson and the motion unanimously passed.

## **MANAGEMENT CONTRACT**

Mr. Zanobini reported that the contract was the same as previous years but CGFA had for legal purposes changed the legal structure of the management organization and the name had changed to Agricultural Ag Management Services Inc. He noted that the fee had been increased as indicated in the budget and discussed in the prior meeting.

A motion to approve the Management Contract was made by Mr. Fagundes, seconded by Mr. Carlin and the motion unanimously passed.

Mr. Zanobini extended a special thanks to Mrs. Windmiller as her expertise and intellectual knowledge has helped tremendously in getting over some significant hurdles.

Mr. Sanderson added that he agreed that Mrs. Windmiller had helped significantly but noted that staff had come a long way in the last year.

## **CLOSED SESSION**

Mr. Kliewer called for a closed session at 2:15 p.m.

Mr. Kliewer called the meeting back to order at 2:53 p.m.

Mr. Kliewer noted that the board had passed a motion to have Mrs. Criswell to take notes at the upcoming KAC compliance audit. He added that the board also formed a subcommittee to develop procedure policy.

Mrs. Windmiller stated that confidential items were to be reviewed at the audit and was not sure if Mrs. Criswell would be able to be excused when those items were reviewed.

Ms. Notoro replied that she would have to confirm whether Mrs. Criswell would be able to participate in the compliance audit.

## **FINANCE/ASSESSMENT**

Mr. Zanobini provided a detailed report on the finances of the committee.

Mr. Matteis mentioned that there was an outstanding past due amount from a prior crop year. He stated that staff needed final direction from the board to pursue a request for a write-off or to refer the case to the USDA. He noted the past due amount was approximately \$200.00.

It was asked as to whether the handler was a grower.

Staff replied that they could not share that information as it was confidential.

It was directed that staff should pursue a referral of the past due amount to the USDA.

A motion to refer the past due amount to the USDA was made by Mrs. Criswell, seconded by Mrs. Myers and the motion unanimously passed.

## **APPROVAL OF THE 2011/12 BUDGET**

Mr. Zanobini reported that there was an issue with budget as it stood which included a carry-over that was too high. He indicated that \$10,000.00 was allocated in the contingency line item so as to ensure that the carry-over was in line. Mr. Zanobini also stated that given the crop estimate was increased from 6.8 million tray equivalents as set in the budget to 7.5 million tray equivalents, that the assessment rate increase to \$.040 would not be needed and that the rate would remain at \$.035 for the 2011/12 crop year.

Mr. Zanobini highlighted the budget line item for performing third party handler audits as the KAC would be taking over the handler audits from the CKC as a result of the wind down of the CKC.

Mrs. Myers asked as to how the handler audit budget line item amount was determined and who would perform the audits.

Mr. Zanobini replied that staff had referenced the cost of a CDFA third party audit for another state program to determine the cost of 4-5 handler audits.

A motion was made by Mrs. Criswell to approve the 2011/12 budget with an assessment rate of \$.035 per volume fill, seconded by Mrs. Myers and the motion unanimously passed.

Mr. Kliewer called for a separate motion to delegate authority to management to perform line item transfers.

It was discussed that the motion should delegate authority to management for inter item transfers up to a specific amount.

A motion was made by Mrs. Myers to delegate authority to the manager to perform inter item transfers up to \$1,000.00, seconded by Mrs. Criswell and the motion unanimously passed.

Mr. Kliewer called for a motion to approve the 2011/12 assessment rate.

A motion was made by Jane Criswell and seconded by Cindy Myers to recommend approval of the administrative expenses/budget in the amount of \$108,075 with an assessment rate of \$.035 per 9 kilo volume fill based on 2,651,515 assessable volume fill or equivalent with a carry in from the 2010/11 fiscal year in the amount of \$112,033.00 and with a projected carry out contingency reserve for the 2012/13 fiscal year of \$10,000.00 and the motion unanimously passed.

## **MINIMUM SIZE SURVEY**

It was discussed that it had been reported in the past there were issues with undersized fruit being imported through mixed loads. The KAC had performed a minimum size survey during the 2010/11 packing season to determine a baseline of minimum size within California with the intent of performing a survey of imported fruit for minimum size.

It was reported that the KAC had decided to perform the California survey as there had been significant rejections of Chilean and Italian fruit during the 2009/10 season.

Mr. Matteis noted that in the last meeting that Mr. Prichardt of Shipping Point Inspection provided comment regarding the size variation of imported kiwifruit and noted that there were not significant inspection failures during the 2010/2011 harvest based on size. Further, it was noted that those failures though not specified, were largely due to decay and maturity issues. It was stated that the discussion of the minimum size issue be taken up at the next meeting.

Mr. Matteis indicated that staff was seeking any further direction on minimum size so that another survey could be conducted for 2011/12.

Mr. Sanderson stated that he believed that the issue of undersized fruit was a problem in past years and that currently there was not the same issue.

It was decided that another minimum size survey would not be performed.

## **2011/12 REGULATIONS**

Mr. Matteis said that the board had approved the regulations during the last meeting and inquired as to whether there were any suggested changes.

There were no recommended changes to the 2011/12 regulations.

## **COLLECTION AND DISTRIBUTION OF INDUSTRY STATISTICS**

Mr. Matteis reported on the KISS reporting for the 2011/12 season indicating that the weekly price-shipment reports would be processed by Bob Thorton of T4 Marketing as it was done during the 2010/11 crop year. He emphasized the addition of the year end reports to those collected by the KAC as the CKC would be winding down and no longer be able to do so. He noted that the reports were essential to maintaining the grower database and reconciling assessments paid over the course of the season to ensure proper assessments were paid. He stated that both forms had been slightly changed in format and were submitted to the USDA for approval. He indicated that the forms were expected to be approved by the time they would be needed in July of 2012.

## **FINAL APPROVAL OF THE 2010/11 E-COMPLIANCE PLAN**

Mr. Matteis reported that the USDA had asked staff to make a minor change to the detail of the plan referring to credit card use. Though the season was over, he noted that the board would still need to finally approve the 2010/11 E-Compliance Plan.

Mr. Kliewer called for a motion to approve the 2010/11 E-Compliance Plan.

A motion was made by Mr. Fagundes to approve the 2010/11 E-Compliance Plan, seconded by Mrs. Myers and the motion unanimously passed.

## **APPROVAL OF THE 2011/12 E-COMPLIANCE PLAN**

Mr. Matteis gave a summary of the plan indicating that the same changes had been made regarding the credit card charges compliance item as well added the details of performing the handler audits as the CKC would no longer be performing them as a result of its wind down in September. Mr. Matteis also indicated that the change of management names from CGFA and AAMSI was made as well.

Mr. Fagundes recommended that the language regarding the audit include that the KAC would conduct a third party audit approved by the USDA.

Mr. Kliewer called for a motion to approve the 2011/12 E-Compliance Plan with the recommended changes.

A motion was made by Mr. Fagundes to approve the 2011/12 E-Compliance Plan with the recommended changes, seconded by Mrs. Myers and the motion unanimously passed.

## **FORMAL RULEMAKING**

Mr. Fagundes provided a report from the Subcommittee on Formal Rulemaking. He indicated that the subcommittee met and discussed the proposed changes to the KAC authority to conduct research and promotions, revising the nominations to elect a group of candidates.

Mr. Fagundes indicated that the subcommittee recommended that the KAC move forward with the formal rule making process.

A motion was made by Mr. Fagundes to begin the formal rule making process, seconded by Mr. Schultz and the motion unanimously passed.

It was discussed that the rulemaking process was lengthy and would involve a submission of a 9 point justification by the KAC to the USDA which would need to be approved by the USDA. Additionally, a public hearing would be held to allow the industry to provide input on the proposed rulemaking change-the final determinant being a grower referendum.

It was inquired as to whether it would be better to separate the motion to conduct research and promotions programs so as to take into account that some industry members would support only research or only promotions.

A motion was made by Mrs. Myers to add the authority to conduct research as a proposed KAC rule making change, seconded by Mr. Litchfield and the motion unanimously passed.

A motion was made by Mrs. Myers to add the authority to perform promotions as a proposed KAC rule making change, seconded by Mrs. Criswell and the motion unanimously passed.

Mr. Fagundes reported that the subcommittee also discussed the ability of the KAC to elect a group of nominees for the new district seats as the districts would be consolidated to three districts with multiple seats per district. He highlighted that during the last subcommittee meeting that KAC may already have the authority to do so. He further stated that the USDA had confirmed that the KAC could draft a Nominations Procedures document that directs the nomination of a group of nominees and change the nomination forms which could be submitted to the OMB for approval. He said that by doing this the KAC would not have to go through the formal rulemaking process. He stated that the subcommittee recommended that staff draft the Nominations procedure and submit new nominations forms to conform to the procedures.

Mr. Kliewer called for a motion to approve the subcommittee's recommendation.

A motion was made by Mr. Fagundes to direct staff to draft a Nominations Procedure and to submit new nomination forms that conform to those procedures to OMB for USDA approval, seconded by Mr. Lavell and the motion unanimously passed.

Other items considered but received no support for recommendation by the subcommittee were a change to restrict multiple board members from one entity from serving and alternate members' ability to serve on the absence of any member absent within their district. It was determined by the subcommittee that current language already provided authority for the KAC to do so.

## **ISSUES AND SCHEDULING OF THE NEXT MEETING**

Mr. Kliewer indicated that an additional motion was passed in the closed session that would approve the reimbursement of Mrs. Criswell for travel expenses should be approved to participate in the upcoming compliance audit.

It was decided that the date of the next meeting would be later determined.

## **ADJOURNMENT**

As there were no other items brought for discussion Mr. Kliewer adjourned the meeting at 4:00 p.m.

Jerry Kliewer, Chairperson  
Kiwifruit Administrative Committee  
Minutes Taken by Nick Matteis