



BOARD OF DIRECTORS MEETING

The Board meeting of the Colorado FAIR Plan was held at 8:30am on June 11, 2024 in person and open via Zoom with notice having been posted to the Plans website.

Those in attendance:

Board of Directors:

Bryan Bernier – Board Chair	CO Ins. Trade Ind. Agent	PIIAC
Trina Markey – Vice Chair	Admitted Mutual	State Farm Insurance Company
Jae Walker	Admitted Mutual	Liberty Mutual Insurance Company
Mark Woods	Admitted Stock	Travelers Insurance Company
Carole Walker	CO Ins. Trade	RMIIA
Brad Levine	Consumer Advocacy	Levin, Sitcoff, Waneka
Martin Burlingame	Insurance Agent Rep	One80Intermediaries
Ellen Testolin Schaffer	Consumer Advocacy	

Colorado FAIR Plan Association Staff:

Kelly Campbell	Executive Director	Colorado FAIR Plan Association
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Colorado Division of Insurance:

Keilani Fleming		DORA Division of Insurance
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Other:

Mark Hillis		FAIR Plan Cost Sharing Alliance
Melissa Chlon		FAIR Plan Cost Sharing Alliance
Russ Hamblen		FAIR Plan Cost Sharing Alliance

Guests:

Melanie Bartlett	Plan Counsel
Chris Hoag	

1. Call to Order

Mr. Bernier called the meeting to order.

2. Anti-Trust Preamble



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Mr. Bernier read the Anti-Trust Preamble and noted that all Board members had previously signed the anti-trust statement, and that it had also been provided as a meeting handout reminding Board members that they were bound by same.

3. Roll Call and Introduction of the Board

Mr. Bernier took roll call for the Board Members and guests and noted that a quorum was present.

Mr. Bernier welcomed the Plans new Executive Director, Kelly Campbell.

4. Approval of Minutes

Mr. Bernier noted that the General Session Minutes of the prior meeting on May 3rd 2024 had been posted to the Plans website, and were also provided to all Board members prior to the meeting.

Ms. Markey moved to accept the Minutes of the May 3rd 2024 General Session meeting, Mr. Burlingame seconded, and the motion carried.

5. Updates and Decisions

Ms. Campbell noted that there were a number of updates as well as decisions to review and address.

a. Plan of Operations Update/Review of Current Draft

i. Feedback of Current Plan Draft

Ms. Campbell noted that there were a number of decisions to address related to the current Plan Draft of the Plan of Operations noting the importance to have this document completed by the July 1, 2024 deadline. Ms. Markey expressed her gratitude to Ms. Fleming with the Division of Insurance for their work in review and feedback.

ii. Identify Outstanding Issues

Ms. Markey reviewed outstanding issues. She noted that they had worked to expand the definition of the deemer provision.

Ms. Markey then noted that within Article VI related to inspections and noted that while the Plan of Operations would speak to this at a high level, but that the underwriting manuals would add clarity to the rules surrounding inspections of properties.

Within Article VI, Ms. Fleming noted that there was concern surrounding the 20 days, and indicated their preference would be to tie this into statute



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and to make this 30 days. After general discussion, the Board agreed that this change was acceptable.

Further discussions took place related to Plan of Operation language for cancellation. The current draft indicates that a policy can be cancelled on any grounds. The intent was to allow the underwriting manual to speak to causes for cancellation. However, the Board agreed to softening the language in the Plan of Operation to simply point to the underwriting manual.

Within the denial/cancellation/non-renewal section with discussion taking place around the currently proposed 180 days for time to repair. The current language uses the word “commenced” to reflect that work has in fact begun on the properties repair. Further, the underwriter has “discretion”. These items are to be spoken to in the underwriting manual.

Ms. Campbell noted that there were still some outstanding critical questions related to the definitions of the Plan. Ms. Fleming noted that the Colorado FAIR Plan Association is not defined as an insurance company, and that the NAIC would be looking at the Plan as a Plan Paper Model (pooling mechanism with a pooling number). Mr. Levine noted that he and Ms. Testolin had been working on a number of legal items that would be further discussed in Executive Session. And regardless of how the Plan was defined, there were several other items to address. He noted that they had prepared a memo for the Board which would be shared in Executive Session.

Ms. Campbell noted that defining who the agent represents is also a critical outstanding item. She noted that there was significant concern with the agent representing the Plan. Ms. Fleming noted that Commissioner Conway would agree that the agent represents the applicant/consumer but would require some additional language into the Plan of Operation. Mr. Burlingame noted that when the agent represents the applicant/consumer that agent becomes a broker and then may be allowed to waive commission and instead charge a fee that may be undefined. Mr. Hamblen noted that with an agent contract, there may be the ability to define this within the contract itself, and that if the Plan was not defined as an insurance company, this may be solved simply through the agent/producer contract. Ms. Campbell noted that this was an important decision, but that it did not need to be addressed in the Plan of Operations. Ms. Chlon noted that the current system build included a nightly cycle data push of agents through NIPR to make sure that the agents using the Plan held an active license. She noted that when a producer was determined not to be



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licensed, that the Plan would stop paying commissions. Mr. Burlingame agreed that a producer would not be allowed to be paid commissions if they were not licensed.

Mr. Walker noted that he believed there was still an opportunity for clarity to be provided by the Division of Insurance pertaining to how an insurer can recoup their assessment dollars. Ms. Fleming noted that the Division of Insurance would be providing a memo that should assist in speaking to this item. Mr. Walker expressed concern that with a January 1, 2025 date and another assessment for loss reserves coming, that the industry would like some direction on this and that the industry would appreciate a quick update on this for system modifications. Being allowed to build this into a carrier's rates would be the preference of the industry. Ms. Campbell noted that she would take this on and would follow up with the Division of Insurance.

Ms. Campbell moved discussion to Article XI and Ms. Fleming noted that the Division of Insurance wanted to make sure that there was industry consideration of indemnification.

Mr. Levine noted that Article X also needed addressed, and Ms. Campbell noted that this would be reviewed during Executive Session as well.

iii. Timeline for Finalization

Mr. Burlingame expressed concern about the pending timeline and asked for a plan to make sure that these items were addressed timely so that the Board could meet the defined timeline.

b. Review of Underwriting Manuals

Ms. Campbell noted that the underwriting manual drafts had been provided to some board members on May 10th by the Alliance and indicated that it was important to work through this now to make sure that items related to systems build could be addressed. Mr. Burlingame asked for a date needed to have the reviews of the UW manuals completed. Ms. Campbell indicated that she would like to pend the timeline conversation at this time and tie that conversation in later along with the Plan of Operation timeline.

Mr. Bernier asked about surcharging for claims frequency. Ms. Chlon noted that the system could accommodate this if the board needed same but that it was not built into the current system specs. Mr. Hamblen noted that with the ISO rates and residual market modifier, some of this was already built into the rating scheme.

c. Actuarial Update



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i. Pricing and Loss Reserves

Ms. Campbell asked for a quick update on actuarial work and pricing. Mr. Hillis noted that the DP product had been developed and tested against but was continuing to be tested. He noted that the next steps would be to begin to work with the Commercial rate testing. Mr. Hillis thanked Mr. Walker and Mr. Burlingame and their work in the rate development process. He noted that CoreLogic was used, and that they recognized that California had used Zesty to review 2016 to 2020, but that he was not aware of any integration that Zesty had with California. Mr. Walker indicated that he believed that the Plan needed to stick with a known entity and asked about the continued use of CoreLogic. Mr. Hamblen noted that in his research of Zesty, it was not integrated with any FAIR Plan for any rating components, but rather used to analyze historical data, wherein CoreLogic was the most tenured and utilized across the industry. Mr. Walker noted that mitigation should be looked at separately then the wildfire score and noted mitigation can be address in the underwriting guidelines. Ms. Campbell noted that she would have a conversation with the Commissioner. Ms. Fleming noted that Commissioner Conway didn't have any preference as to any particular tool but rather, the ability to understand the tool. He would not recommend one tool over another. She also reminded the Board that the Plan is here to address an availability issue and not an affordability issue.

d. Tax Status

Ms. Campbell noted that the tax status of the Plan was a critical process decision. She asked Ms. Bartlett, Plan Counsel, to speak to the tax status of the Plan. Ms. Bartlett indicated that Ms. Campbell had secured from PIPSO the tax status of all FAIR Plans, and that there were variances across the country. At this point, the thought process is to move forward as a 501(c)(6) entity. She noted that the FAIR Plan Cost Sharing Alliance had also volunteered to share historical data related to IRS challenges to FAIR Plans should the Board want to review same. Mr. Woods inquired about any downsides to filing as a tax-exempt status. Ms. Bartlett didn't indicate any and a general conversation took place pertaining to the Plan being an association, but also a public entity. Ms. Bartlett noted that statute defined the Plan as a not-for-profit entity. Mr. Bernier asked for this discussion to be tabled until the next Board meeting to allow for Ms. Bartlett and Ms. Campbell to continue to work on same.

e. Board Meeting Schedule

Ms. Campbell proposed to move Board meetings away from Fridays and proposed another day of the week. She further proposed moving the July meeting off the calendar. Mr. Bernier indicated that he was fine with the proposal, and that he agreed with leaving the schedule up to Ms. Campbell. Ms. Testolin asked for consideration to move from in person meetings to Zoom meetings. Mr. Bernier



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noted that they could consider this as the Plan moves forward. Ms. Campbell indicated that she might be looking towards Tuesdays for meetings and then looking at meetings every 6 weeks unless there were decisions needed more quickly.

6. Other Business

a. Assessment Update

Ms. Chlon noted that there was an outstanding assessment amount of just under \$450,000. She noted that she had reviewed the final letter verbiage with Ms. Campbell and the letters are ready to be mailed this week. Ms. Campbell noted that a proactive outreach to these carriers would be important prior to asking the Division of Insurance to act. Ms. Walker asked for a list, and Ms. Chlon noted that Ms. Campbell had this list and that she could provide same to the Board. Ms. Chlon noted that the outstanding 53 companies were limited to 15 groups. Ms. Chlon indicated that of the outstanding amount due, there was one larger carrier whose balance represented nearly half of the \$450,000.

b. System Update

Ms. Chlon provided a brief systems update and that the dwelling system demo had been provided. Work was looking very positive however she noted that the underwriting manuals were a critical component.

c. Executive Director Update

Timeline Development – Educational Outreach: Ms. Campbell noted that she was working on a number of other items such as the development of Educational Outreach. She has contacted a local vendor who had worked with Florida Citizens on outreach work.

i. Looking Ahead

- 2025 Alliance Needs

Ms. Campbell noted that it would also be critical to determine what the Plans needs were for 2025 related to requests for assistance from the Alliance.

- Staffing

Ms. Campbell noted that she preferred to utilize independent contractors initially before staffing up for the needs of the Colorado FAIR Plan.

- Ms. Campbell noted that she was working on finding office space for the Plan and this search was in the initial stages.



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7. Adjournment

It was noted that the Board's next meeting would be determined at a later date. Pursuant to Section 24-6-402(3) of the Colorado Revised Statutes, Mr. Bernier moved that this general session public meeting of the Colorado FAIR Plan Association Board adjourn and that, upon an affirmative vote of at least two-thirds of the members present for this motion, the Board reconvene in executive session for the sole purpose of discussing legal issues with counsel as authorized by CRS Section 24-6-402(3)(a)(ii). Mr. Burlingame seconded, the motion passed unanimously.

Respectfully Submitted,

A handwritten signature in black ink that reads 'Kelly Campbell'.

Kelly Campbell
Executive Director