



Executive Committee Meeting Minutes June 17, 2021

The Executive Committee of the Lodi Winegrape Commission met on June 3, 2021

1. The meeting was called to order by Chair Altnow at 2:37PM.
2. Roll was called. In attendance were Chair Altnow, Curt Gillespie, Aaron Shinn and Brandon Sywassink. Also, in attendance was Mirek Wilczek (CDFA Marketing Branch) Staff present was Stuart Spencer. A quorum was established.
3. Minutes of 6/3/21 were approved (Exhibit A). Gillespie/Sywassink– Carried
4. Public Comments on Items Appearing on the Agenda – None
5. LWC Activities – No report
6. LWC Policy & Procedures –
 - Board Elections – Ballots have been mailed and must be post marked by June 15.
 - Assessment Collection Policy & Procedures - Spencer shared the draft Assessment Policy & Procedures (Exhibit B). The committee reviewed and discussed. Motion to approve and recommend to the board. Sywassink/Gillespie - Carried
7. The committee wen into closed session regarding the appointment, employment, evaluation of performance, or dismissal of an employee pursuant to California Government Code Section 11126(a).
8. The committee returned from closed session. Chair Altnow noted that in addition to conducting the performance evaluation, the Executive Committee discussed the importance of benchmarking the ED compensation to similar sized trade associations based on budget and number of employees. Altnow explained that the Executive Committee felt this was critical to retaining staff and attracting new talent down the road. A 13% raise was unanimously approved by the Executive Committee.
9. Public Comment on items not appearing on the agenda – None.
10. Future Agenda Items - None

11. Next meeting date – not set

12. The meeting was adjourned at 4:45PM.

Respectfully submitted,

Stuart Spencer
On behalf of Curt Gillespie
Secretary



Executive Committee Meeting Minutes June 3, 2021

The Executive Committee of the Lodi Winegrape Commission met on June 3, 2021

1. The meeting was called to order by Chair Altnow at 2:34PM.
2. Roll was called. In attendance were Chair Altnow, Curt Gillespie, Aaron Shinn and Brandon Sywassink. Also, in attendance was Mirek Wilczek (CDFA Marketing Branch), Joan Kautz and Larry Whitted. Staff present was Stuart Spencer and Stephanie Bolton. A quorum was established.
3. Minutes of 5/5/21 were approved (Exhibit A). Sywassink/Shinn – Carried
4. Public Comments on Items Appearing on the Agenda – None
5. FY 2021-20 Budget – The Executive Committee and Committee chairs reviewed the staff-prepared income projection, and the committee budget requests. Several changes were made including reducing the advertising line of the grower marketing committee and the road shows expenses for the winery marketing committee budget. The committee wanted to balance the budget and align winery marketing activities with the upcoming strategic planning process. After changes the committee is projecting \$2,280,672.62 in revenue and \$2,302,281.62 in expenses for a budget shortfall of \$21,609 (Exhibit B). Motion to accept the amended budget and recommend the full Commission Board adopt the proposed budget. Shinn/Gillespie – Carried.
6. LWC Activities – No report
7. LWC Policy & Procedures –
 - Board Elections – Ballots have been mailed and are due back by June 15.
 - Assessment Policy & Procedures - Spencer shared the draft Assessment Policy & Procedures (Exhibit C). The Executive Committee will review and discuss at next meeting.
 - Executive Director Review & Compensation Policy – the committee will review the ED at the June 17 meeting.
8. Public Comment on items not appearing on the agenda – None.
9. Future Agenda Items –

- Executive Director Review
- Assessment Policy & Procedures

10. Next meeting date – the Executive Committee will meet June 17 at 2:30PM/

11. The meeting was adjourned at 4:32PM.

Respectfully submitted,

Stuart Spencer
On behalf of Curt Gillespie
Secretary

LODI WINEGRAPE COMMISSION

ASSESSMENT COLLECTION PROCEDURES

Pursuant to California Food and Agricultural Code Section 74892, the Commission hereby adopts the following procedures:

1. Prior to the beginning of each marketing season (July 1 - June 30) or as soon thereafter as possible, the Commission shall establish an assessment rate for the marketing season. The assessment shall not exceed one percent (1%) of the gross dollar value of winegrapes grown in Grape Crush District #11 (hereinafter District #11) and marketed by producers to vintners.

All definitions contained in Commission law (California Food and Agricultural Code Sections 74801 et seq.) shall apply to these procedures. For purposes of these procedures, the following definitions are particularly important:

"Producer" and "grower" are synonymous and mean any person who produced and marketed winegrapes in the preceding marketing season in a quantity of more than 25 tons. Unless otherwise exempted, producer also includes any person who receives winegrapes as payment for the use of his or her property in the production of winegrapes. In general, the producer is the person or company who grows and sells winegrapes, juice, and/or bulk wine.

"Handler" means any person engaged in the marketing of winegrapes or winegrape products that the person has produced, purchased, or acquired from a producer, or is marketing on behalf of a producer whether as owner, agent, employee, broker, processor, or otherwise.

"Winegrower", as defined in Section 23013 of the Business and Professions Code, means any person who has facilities and equipment for the conversion of grapes, berries, or other fruit into wine and is engaged in the production of wine.

"Vintner" means a winegrower who holds a winegrower's license issued by the Department of Alcoholic Beverage Control pursuant to Chapter 3 (commencing with Section 23300) of Division 9 of the Business and Professions Code, and who is engaged in producing must, grape juice, grape concentrate, wine, or products thereof, including high proof and brandy by processing winegrapes or field crushed must. In general, the vintner is the winery that purchases winegrapes from growers.

2. Every producer, and every vintner who purchases winegrapes from or processes winegrapes for producers, shall maintain normal commercial records of all winegrapes grown for market or processed, including but not limited to the purchase, sale, storage, or custom crushing of winegrapes. The records shall be preserved for a period of two years and shall be submitted by the producer or vintner for inspection at any reasonable time upon written demand. The Commission may request that the California Department of Food and Agriculture (CDFA) audit these records at any time.

3. Producers shall provide to the Commission the names of the vintners who purchase winegrapes from or process winegrapes for the producers. Vintners shall provide to the Commission the names of the producers from whom they purchase or for whom they process winegrapes and the amount of assessment remitted to the Commission for each producer upon written demand from the Commission or its duly authorized agent.
 4. Any assessment levied pursuant to Commission law is a personal debt of every person assessed.
 5. Pursuant to Food and Agricultural Code Section 74957, any person who fails to file a report, or remit or pay any assessment within the time required by the Commission shall pay to the Commission a late penalty of 10% of the amount of the assessment determined to be due and, in addition, shall pay 1.5% interest per month on the unpaid balance.
 6. Annually the Commission shall send to each known or believed vintner a packet of information regarding the assessment collection process, including blank assessment report forms. The same or similar information may be sent to producers when deemed appropriate or necessary.
 7. The vintner first acquiring the grapes being assessed shall deduct the assessments from amounts paid by the vintner to the producer. Title to the assessments shall pass immediately to the Commission and vintners shall hold the assessments in trust for the benefit of the Commission.
- While the collection of assessments is generally from the vintner/winery, the Commission may, in rare instances, collect the assessment(s) directly from the producer/grower as allowed by Commission law¹. In such rare event, the same procedures described in these procedures normally used for actions against vintners may be utilized for collection from producers.
8. Assessment reports regarding all winegrapes purchased or processed during the marketing season shall be received by the Commission no later than January 10. Assessment payments shall be remitted on a schedule published by the Commission at the start of each marketing season, but in no event shall payments be made later than April 30.
 9. Custom crush: When a producer delivers winegrapes to a vintner for “custom crushing”, but retains title to the winegrapes and resulting winegrape product, the vintner must report the custom crush activity to the Commission but shall not be required to remit an assessment to the Commission if the producer has not been paid for the winegrapes or resulting winegrape product. The producer shall pay, within 30 days after the sale, the assessment for the custom crushed grapes which shall be calculated by the District average price from the preceding year. The assessment may be deducted and remitted by the purchaser.

¹ Section 74956 of Commission law provides, in pertinent part: “Failure of a vintner to collect the assessment from a producer shall not exempt the vintner from liability nor relieve the producer of the obligation to pay the assessment.”

10. A producer or vintner who has not provided the required assessment reports and/or payments by the due date will be sent a written notice (may be sent via facsimile, email, regular first class mail, or express mail carrier) asking the producer or vintner to provide the reports and/or payment. At least two such written notices must be sent prior to referring the matter to the Commission's legal counsel for further action.
11. Matters referred to legal counsel will result in a demand letter being sent by legal counsel to the producer or vintner via express mail service for which delivery can be confirmed, which gives the producer or vintner at least 15 days from the date of the Notice in which to provide reports and/or pay assessments, as applicable.
12. If no satisfactory response is received from the producer or vintner during the 15 day notice period, a summons and complaint may be drafted by legal counsel and filed with the appropriate Superior Court in the county where the Commission's principal office is located. Once filed, the complaint will be served on the producer or vintner by a process server.
13. The producer or vintner has 30 days after service of the complaint in which to respond.
14. Prior to the filing of a civil complaint in Superior Court, Commission staff and legal counsel shall maintain the identity of a delinquent producer or vintner in confidence. Commission staff and legal counsel may report to the Commission Board at any time regarding the status of collections, but prior to filing a complaint, such reports shall be made without using the name of the producer or vintner or other information which would allow Board members to determine the identity of the delinquent producer or vintner.
15. If the producer or vintner responds to the complaint, it may take many months, or even years, to reach trial. During that time, all reasonable efforts will be made to settle the litigation.
16. If the producer or vintner does not respond to the complaint, a request for entry of default will be filed with the court.
17. Upon a favorable judgment for the Commission, the Commission shall be entitled to recover its reasonable attorneys' fees and other related costs.
18. Once a judgment is obtained by trial or default, collection and enforcement efforts will begin.
19. At any point during the assessment collection process outlined above, the Commission may request that the California Department of Food and Agriculture (CDFA) conduct an audit of a producer's or vintner's production and/or sales records pursuant to authority granted in California Food and Agricultural Code Section 74954.
20. Any producer who meets any of the requirements specified in California Food and Agricultural Code Section 74952.7(b) may apply to the Commission for, and if found eligible, shall, at the discretion of the Commission, receive either an exemption from, or a refund of, the assessment. Requests for a refund of overpayments of any assessment shall fall under these rules regarding refunds.

Any producer seeking an exemption from or refund of assessments must complete an *Assessment Exemption/Refund Request Form*, attesting to the facts establishing the producer's right to an exemption and/or refund, and submit the form to the Commission within a two-year period (California Food and Agricultural Code Section 74952.7(g)). A new *Assessment Exemption/Refund Request Form* shall be submitted every two years or when the facts represented on the previous *Form* change, whichever is earlier.

Upon receipt of the *Assessment Exemption/Refund Request Form*, Commission staff shall work to verify eligibility. Once verification is complete, the Commission Executive Director shall review and either authorize or deny the assessment exemption or refund. A decision regarding the claim for exemption or refund shall be made by the Executive Director no later than 30 days after receipt of the claim.

A vintner may also utilize these assessment refund procedures in instances where an overpayment or duplicate payment has been made and the vintner shall be subject to the same procedures and decision-making process described above in such cases.

A producer or vintner making a claim for exemption or refund of assessments must be able to make its sales records and other business documents available to the Commission upon request. Such records must be maintained by all producers and vintners for at least two years (California Food and Agricultural Code Section 74952.7(f)). The Commission reserves the right to verify all claims through an independent audit of the producer (or vintner) making the claim as well as the producer's related vintner or handler's business records by the Secretary of the California Department of Food and Agriculture (California Food and Agricultural Code Section 74952.7(e)).