

FINAL MINUTES
Board of Agriculture and Consumer Services
Oliver W. Hill Building, 102 Governor St., Richmond, Virginia
December 7, 2006

The meeting convened at 9:00 a.m. on Thursday, December 7, 2006, in the Oliver Hill Building, 102 Governor Street in Richmond, Virginia. President Holland requested a moment of silence and then called the meeting to order. The Board Secretary called the roll:

PRESENT

Stephen Wolfe
L. Bruce Holland
Paul W. Rogers, Jr.
Edward S. Fleming
Charles C. Clark, Jr.
John D. Hardesty, Jr.
Melvin Murphy
Dr. Alma Hobbs

James Riddell

DISTRICT

1st
2nd
3rd
7th
9th
10th
11th

Representing, President of Virginia
State University

Representing, President of Virginia Tech

ABSENT

T. M. Hardison
Wanda G. McDowell
Andrea Lohr
Gregory J. Galligan

4th
5th
6th
8th

STAFF PRESENT

Donald G. Blankenship, Deputy Commissioner
Saba Shami, Chief Deputy Commissioner
Roy E. Seward, Board Secretary

APPROVAL OF MINUTES

The minutes of the August 24, 2006 meeting were approved as distributed. Mr. Wolfe abstained from voting noting that he did not attend the August meeting.

REPORT FROM BOARD MEMBERS

Mr. Fleming reported on the unusual summer ranging from drought to floods and the impact on agricultural production in his congressional district.

Mr. Rogers advised the Board of the heavy rains in the fall and their effects on crop yields. Concerning the outlook for peanut production, he noted that

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acreage will probably be stable in 2007 after being on a steady decline for the past three to four years. He also mentioned that there are some quality issues with both peanuts and cotton harvested this fall.

Mr. Murphy did not have a report.

Dr. Hobbs, who represented Virginia State President Eddie Moore, reported that Governor Kaine would be the keynote speaker at the University's graduation exercise on December 16. During her review of developments at VSU, she reported on the groundbreaking for a new student housing facility and complex to be completed by fall 2007. She also reported on a master's program in plant science at the University and a master plan to build a new sport complex.

Mr. Riddell, representing Dr. Charles Steger, Virginia Tech's President, reported on plans to showcase Virginia agriculture at the largest exposition for agriculture in the southeastern U.S. to be held in Georgia during October 2007. He explained that Virginia Tech will be seeking the participation of partners such as the Virginia Farm Bureau Federation and VDACS in this event. He also reported on state budget proposals for funding additional Extension specialist and agent positions in Virginia. He also mentioned efforts to seek funding for a new Virginia Tech facility on the Eastern Shore that would be named in honor of Secretary Robert S. Bloxom and which could provide Extension, VDACS and others the opportunity to co-locate in the new building.

Mr. Hardesty noted for the record his thanks to Andrea and Matt Lohr for hosting the August Board meeting. During his report he advised the Board that the Armstrong family which had owned National Fruit for nearly a century has sold its firm.

Mr. Clark reported that farmers in his district have experienced an unbelievable grass and livestock year. We had some heat, but not more than a couple weeks. He added that cattle prices are dropping---the average tractor trailer load of cattle from southwest Virginia is \$10,000 less than it was two months ago. He also mentioned that a large retail grocery business which serves 1.4 million customers is working local beef producers on a plan to buy 75 to 100 thousand pounds of hamburger patties for 95 stores located mainly in Kentucky, Tennessee and Virginia. He noted that VDACS will be asked to help with this project.

Mr. Wolfe thanked Andy Alvarez and his staff in the Division of Consumer Protection for the help they provided when a waste hauling company went out of business without notice to its customers. He also briefed the Board on

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agriculture in his congressional district and the different weather conditions experienced in the northern and southern ends of this area.

Mr. Holland in report on the agricultural situation on the Eastern Shore reported that in 2006 his district probably had the largest corn crop on record and perhaps the largest price at harvest time in recent experience. He also reported on the opening of a new Virginia Tech building and the dinner that Mr. Rogers and he attended when the National Association of State Departments of Agriculture visited the Shore as part of NASDA's annual meeting in Norfolk.

Mr. Holland advised the Board he had talked with Ms. Lohr and that she sends her best wishes to everyone. Mr. Hardesty made the motion that the Board sends Ms. Lohr a resolution expressing the Board's appreciation and support. Mr. Clark seconded the motion and it was passed by a unanimous vote.

REPORT FROM SECRETARY OF AGRICULTURE & FORESTRY

Secretary Robert S. Bloxom thanked the Board members for their support and service to the Commonwealth. During his report he also provided an update on efforts to recruit candidates for appointment as Commissioner of Agriculture and Consumer Services.

VDACS OPERATIONAL REPORT

Deputy Commissioner Don Blankenship reported on a number of items in his presentation to the Board concerning the operation of the Department. Among those items were the following:

- *Personnel Changes
- *Farmland Preservation Coordinator
- *Grand Opening and Ribbon Cutting for Manquin Gardens
- *Specialty Ag Forum
- *Help for a Virginia Spinach Growers
- *Virginia Finest Advertising
- *Virginia Peanut Market Assessment
- *Virginia Equine Team Visits United Kingdom
- *Consumer Information about Charitable Contributions & Scams
- *Cooperative Pesticide Disposal Program
- *Plastic Pesticide Container Recycling Program
- *Asian Soybean Rust, Gypsy Moth, Imported Fire Ants, & Sudden Oak Death
- *Recruitment of Office of Product & Industry Standards Program Manager
- *Virginia Animal Identification Program
- *Efforts to Accredit VDACS Regional Animal Health Labs
- *Outbreak of Salmonella in Tomatoes
- *Illegal Shooting Enclosures
- *Establishment/Enforcement of Live Bird Market Regulations

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- *Update on the Dangerous Dog Registry
- *Forest Conversion and Water Quality
- *VDACS 2007 Budget and Legislative Proposals

In response to Mr. Blankenship's report, Mr. Wolfe asked for a report on the status of funding for the Weights and Measures Program at the March Board meeting.

Mr. Holland welcomed Vernita Boone, Scott Johnson and Shanee Harmon to the VDACS staff. On a different subject, he encouraged Secretary Bloxom to give consideration to the need for state funding for soybean rust scouting work.

VIRGINIA AGRICULTURAL STATISTICS REPORT

Kevin Barnes, Director of the Virginia Office of the National Agricultural Statistics Service (NASS) of USDA, presented the Board with an update on recent reports and projects of his office. Mr. Barnes, who will be taking a new job in the Washington headquarters of NASS in January, expressed his appreciation for the support and interest of the Board in work of his office during his three years in Virginia.

VDACS POUND INSPECTION - PROPOSALS FOR IMPROVEMENT

Donald Marro of the Virginia Voters for Animal Welfare (VVAW) presented the Board options for handling pound inspections and records reporting such as moving the inspection and reporting functions to another state agency or privatizing these functions. Mr. Marro expressed an interest in the Board's support for legislation to address the current situation. Following his presentation Kim Kinchloe, also a member of VVAW, encouraged the Board members to visit local pounds and shelters to see for themselves the conditions of these facilities.

Mr. Rogers moved that the issue presented by Mr. Marro be tabled. Mr. Murphy seconded the motion and it was carried by a unanimous vote.

DRAFT PROPOSED REGULATIONS GOVERNING GRADE "A" MILK (2 VAC 5-490)

Dr. Richard Wilkes, Director of the Division of Animal and Food Industry Services, briefed the Board on the draft proposed Regulations Governing Grade "A" Milk (2 VAC 5-490). It was noted that the draft proposed regulations, a summary of the proposal and scientific background information relating to the proposal were sent to the Board prior to the meeting and that these same documents are included in the Board meeting folders.

John Beers, who oversees the dairy inspection activities located in the Office of Dairy and Foods, followed Dr. Wilkes with a review of the need for amendments to the existing regulations (2 VAC 5-490) and summarized the proposed changes the draft proposed regulations would make. Mr. Beers noted that the

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Code of Virginia provides a fast-track process for seeking public review and comment of the draft proposal. He added that it would be the staff's recommendation that the Board take action to propose the draft regulations and to authorize staff to take any and all actions necessary to have the draft filed and published as a proposed regulation for public comment.

Following Mr. Beers' briefing, Mr. Seward advised the Board that Mr. Hardesty had signed and dated today the following statement concerning Mr. Hardesty's interest in the draft proposed regulation: "I, John D Hardesty, Jr., acknowledge that I may possibly be financially impacted as a result of votes by the Board concerning 2 VAC 5-490, Regulations Governing Grade "A" Milk. The nature of my personal interest is as follows: I am a dairy farmer. I am a member of a business, profession, occupation, or group affected by actions relating to 2 VAC 5-490. I am nevertheless able to vote fairly, objectively and in the public interest."

Mr. Seward explained that any case in which a Board member may have a direct interest in a matter that comes before the Board, that members should notify the Secretary of their interest and, if they believe they can vote fairly, objectively and in the public interest, they have the option of making a statement for the record similar to that of Mr. Hardesty and then vote.

Mr. Wolfe moved that the Board of Agriculture and Consumer Services propose the draft Regulations Governing Grade "A" Milk, 2 VAC 5-490, as presented by staff and authorize staff to take any and all actions necessary to have the regulations filed with the Virginia Registrar of Regulations and published in The Virginia Register of Regulations as proposed regulations for public review and comment.

Mr. Fleming seconded the motion and it was carried by a unanimous vote.

PROPOSED FINAL RETAIL FOOD ESTABLISHMENT REGULATIONS (2 VAC 5-585)

Dr. Wilkes opened the staff presentation on the proposed final Retail Food Establishment Regulations, 2 VAC 5-585. He then introduced Doug Saunders, Program Manager, Office of Dairy and Foods, who reviewed with the Board the actions taken to develop the proposed final regulations, including the filing and publication of a notice soliciting public comments, the holding of a public hearing on August 29 to seek more comments, and the review and analysis of public comments. It was noted that a copy of the proposed final regulations, a copy of the transcript of the August 29th public hearing, and a summary of the proposed final regulation were sent to the Board prior to the December meeting and that these same documents were included in the Board meeting folders.

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During his report Mr. Saunders advised the Board that the proposed final regulations are moving through an abbreviated regulatory process established in law by the General Assembly. He added that the Board of Health is following a similar process to adopt final retail food establishment regulations which, by law, must be effective on the same date as proposed 2 VAC 5-585. He also noted that by law the existing retail food establishment regulation (2 VAC 5-580) will be repealed once 2 VAC 5-585 becomes effective.

Following the staff presentation and Board discussion, Mr. Hardesty moved that the Board of Agriculture and Consumer Services adopt as final regulations the proposed Retail Food Establishment Regulations, 2 VAC 5-585, as presented by staff, and that the Board authorize staff to take any and all actions necessary to have the regulations filed as final regulations and that staff coordinate with the staff of the Department of Health the filing of the final regulations to insure that the effective date of 2 VAC 5-585 is the same as that of retail food establishment regulations the Board of Health is expected to adopt. Mr. Murphy seconded the motion and it was passed by a unanimous vote.

VDACS GRAIN INSPECTION STAFFING

Mr. Blankenship provided introductory remarks regarding the staffing of the grain inspection program and then called on E. L. Knicely of the Division of Marketing who oversees the program to brief the Board regarding the program which is supported by nongeneral funds generated by fees paid for the inspection services. In response to Mr. Holland's comments about the need for general support for the program and the need for VDACS to purchase "falling numbers" machines for the program, Mr. Blankenship noted that this program is supported by fees collected but that VDACS has used general funds to help the program when necessary.

After the briefing, Mr. Hardesty moved that the Board of Agriculture and Consumer Services express its support for the program and for the purchase of "falling numbers" machines. Mr. Clark seconded the motion and it was passed by a unanimous vote.

PROPOSED RESOLUTION RECOGNIZING CARLTON COURTER

After the Board reviewed the proposed resolution recognizing Carlton Courter included in the Board meeting folders, Mr. Wolfe moved that the Board adopt the proposed resolution recognizing former Commissioner Courter and that staff be directed to prepare the resolution for presentation and to arrange for Mr. Courter to attend the March meeting to receive this resolution. Mr. Murphy seconded the motion and it was carried by a unanimous vote.

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NEW BUSINESS

Mr. Holland initiated a discussion of the role and function of the Virginia Agricultural Council in response to a copy of the Council's annual report which was included in the Board meeting folders.

PLANS FOR FUTURE BOARD MEETINGS

Mr. Seward reported that the Board is scheduled to meet in Richmond on March 22, 2007. He suggested that the Board members also hold open May 17 and December 6 as dates for future meetings in Richmond. Mr. Clark volunteered to host the Board in his district during August for a summer meeting and tour.

PUBLIC COMMENT PERIOD

Lois Smith commented on unlicensed shooting enclosures and charges of "illegal transporting of pigs".

Mr. Wolfe noted that his service on the Board is scheduled to end in 2007 unless he is reappointed. He indicated that he has enjoyed serving on the Board the past four years.

ADJOURNMENT

The Board adjourned at 12:00 noon.

Respectfully submitted,

L. Bruce Holland, Board President

Roy Seward, Board Secretary