

**DRAFT MINUTES**  
BOARD OF AGRICULTURE & CONSUMER SERVICES  
Beale Memorial Baptist Church Building  
202 Church Lane  
Tappahannock, Virginia  
August 4, 2009

The meeting was convened at 1:00 p.m. on Tuesday, August 4, 2009, in the Beale Memorial Baptist Church Building, 202 Church Lane, Tappahannock, Virginia. President Rogers led the Board in prayer and then called the meeting to order. The Board Secretary called the roll:

**PRESENT**

Stephen Ellis  
Steve Sturgis  
Paul W. Rogers, Jr.  
William B. Bain  
Edward S. Fleming  
Charles C. Clark, Jr.  
John D. Hardesty, Jr.  
James Riddell  
Dr. Wondi Mersie

**DISTRICT**

1st  
2nd  
3rd  
4th  
7th  
9th  
10th  
Representing Virginia Tech  
Representing Virginia State University

**ABSENT**

Traci Rickman Talley  
Andrea Lohr  
Patrick A. Toulme  
Melvin Murphy

5th  
6th  
8th  
11th

**STAFF PRESENT**

Todd P. Haymore, Commissioner  
Donald G. Blankenship, Deputy Commissioner  
Roy E. Seward, Board Secretary

**APPROVAL OF MINUTES**

President Rogers advised the Board that Eileen McAfee, who spoke to the Board during the public comment period at the meeting on May 21, 2009, asked that the draft minutes be amended to make it clear that her remarks related to local pounds "across the Commonwealth. In response, Mr. Clark moved that "*across the Commonwealth*" be added after "pounds" on line 9 of page 9 of the draft minutes. Mr. Ellis seconded the motion. Mr. Sturgis moved that the draft minutes be approved as amended. Mr. Bain seconded the motion and it was carried by a unanimous vote.

## **REPORTS FROM BOARD MEMBERS**

Mr. Sturgis (2<sup>nd</sup> Congressional district) reported that crops have been good this summer. He noted that the Eastern Shore has a really nice snap bean crop this summer. He stated that the soybean and corn crops are looking good. He reported that the Shore this year has approximately 3500 acres of lima beans. He stated that the producers of tomatoes under plasticulture on the Shore are continuing to work with the Department of Environmental Quality on a Memorandum of Agreement. (The Department of Conservation and Recreation and the Virginia Department of Agriculture and Consumer Services (VDACS) have also taken part in the negotiations.) He indicated that this year the tomato crop is good with good yields and quality but that the market is terrible.

Mr. Bain (4<sup>th</sup> district) reported that the season started off wet, but was dry through July. He added that near the end of the season his area is getting some rain. He noted that the rain came late for some of the corn, that peanuts have recovered; and that soybeans are really growing. He stated that cotton producers are happy with their crops. He reported that the grass is green and cattle are doing well.

Mr. Fleming (7<sup>th</sup> district) reported that dairy farmers are taking a beating with prices at their lowest level in some time. He noted that the wheat crop was excellent this year. He mentioned that one load of wheat from a local farm failed inspection at Norfolk while another load from the same bin passed inspection. He added that after a re-inspection the first load passed. He asked if more grain inspectors are needed. He reported that the corn and bean crops look very good and that his area had a very good early hay crop. He noted that his area has received timely rainfall this summer. Before ending his report, he asked why prices offered for wheat in Norfolk are \$1.25 to \$1.30 less than prices from the Chicago Board of Trade. He also asked what effect the new ethanol plant in Hopewell would have on local grain farmers.

Dr. Mersie, representing Virginia State University (VSU) President Eddie N. Moore, Jr., reported that VSU has started a national search to fill the position of Dean of the School of Agriculture and Extension Services formerly held by Dr. Alma Hobbs. He informed the Board of plans for VSU's 24<sup>th</sup> Annual Agriculture Field Day on August 25, 2009, and the University's Aquaculture Field Day on October 22, 2009. (Both field days will be held at VSU's Randolph Farm.)

Mr. Riddell, representing Virginia Tech (VT) President Charles W. Steger, reported that VT has named Dr. Alan Grant, who has been a professor and head of the Department of Animal Sciences at Purdue, to serve as VT's new Dean of Agriculture and Life Sciences effective October 1, 2009. He mentioned Cooperative Extension's efforts to seek input from all stakeholders in a strategic planning process and that a strategic plan is expected to be completed by early next spring. He also reported on the Governor's

request for budget reduction plans at the 5, 10, and 15 percent levels. He talked about plans for the Virginia Ag Expo that will be held at the John Mill Farm in King William County on August 6. He noted that it will be the largest Ag Field Day in the state and is sponsored by a number of different groups including Cooperative Extension, VT, and VSU. He reported on plans for other field days across the state in August and September and noted VT's plans for relocating some of the agricultural units now located on campus to Kentland Farms. He concluded his report with a note about the Mid-Atlantic Grass Finished Livestock Conference planned for October 23-24, 2009.

Mr. Hardesty (10<sup>th</sup> district) thanked Mr. Ellis for hosting the Board meeting and tours. He also thanked everyone for their support over the last six months. He noted that his area has had a cool summer, one of the coolest in history. He added that with good rainfall, his area has had a good hay crop and that peach and apple crops have been about average this year. He noted that the barley and wheat crops have been average, that corn looks good, and that soybeans were planted late, but is off to a good start. He stated that pasture is really good due to the rain. He noted a significant amount of sod is grown in his area and that sales have been down because of the housing slump. He reported that many farmers are operating local fruit stands and that dairy producers have been hit really hard by low milk prices. He mentioned that his area has a couple of farm wineries that have been affected by wet weather.

Mr. Ellis (1<sup>st</sup> district) reported that his area has received more rain than they have seen in a number of summers, but there still are dry pockets. He noted that the storms tend to follow the big rivers in his area. He stated that, overall; crops are going to be average if not above average. He advised the Board that his area has a vibrant seafood industry, and that his area has very few cattle producers and they are battling input costs. He noted that everyone has been building houses on the rivers and creeks in his area, and that, when the housing market went down, the local economy was impacted. He added that he does see signs of improvement.

Mr. Clark (9<sup>th</sup> district) thanked Mr. Ellis for inviting the Board to his area. He reported on cool, damp conditions in the Southwest. He added that July 2009 was the one of coldest Julys on record and that his area received considerable precipitation in comparison with the dry conditions of the past two years. He noted that the wet weather has improved the long-term dry conditions somewhat but has not been good for the local tomato crops. He stated that the dairy industry in his area and around the state has been struggling because of the low milk prices. He thanked VDACS for its efforts in promoting direct marketing and farmers markets. He added that these markets are doing well and that consumers appear to be very supportive of local markets.

Mr. Rogers (3<sup>rd</sup> district) reported that it was extremely dry in late June and early July, and now his area is experiencing spotty rains with some areas having adequate

moisture and some still needing more rain. He stated that, on the consumer side, a month ago there were a number of issues in the Tidewater area about gasoline being sold. He added that VDACS investigated the situation and did an excellent job of resolving the problem.

### **COMMISSIONER'S REPORT**

Commissioner Haymore presented highlights of his written report which was included in the Board meeting folders.

The Commissioner mentioned that Ms. Talley (5<sup>th</sup> district), will be resigning from the Board. He added that he would be working with the Office of the Secretary of the Commonwealth concerning a replacement for Ms. Talley.

### **RECOGNITION BRUCE HOLLAND**

President Rogers presented former Board President Bruce Holland a plaque recognizing Mr. Holland's service as a Board member and President. Mr. Holland stated that he enjoyed his association with the Board and staff over the eight years he served on the Board.

### **MEETING RECESS**

Mr. Rogers called for a recess of the Board meeting to allow the Board and staff to prepare for the 2:00 p.m. public hearing on the proposed permanent fire ant quarantine (2 VAC 5-315).

### **PUBLIC HEARING - FIRE ANT QUARANTINE (2 VAC 5-315)**

Mr. Rogers opened the public hearing at 2:00 p.m. and then called on Andy Alvarez, Director, Director of Consumer Protection. Mr. Alvarez introduced Larry Nichols, Manager of the Office of Plant Pest Services (OPPS), who briefed the Board on the actions taken by staff and the Commissioner to put a temporary quarantine in place and to communicate with the public and regulated parties concerning the anticipated adoption of a permanent quarantine to replace the temporary quarantine. The Board was advised that a notice of today's public hearing was published in The Virginia Register of Regulations and that the purpose of the hearing is to provide all interested parties an opportunity to comment on the proposed quarantine. In response to questions from the Board, Mr. Nichols stated that it is likely that the federal government would step in to regulate the entire state if Virginia failed to adopt a permanent quarantine to continue the Commissioner's temporary quarantine. He discussed the restrictions on the movement of farm equipment as part of the quarantine.

In response to Mr. Rogers' call for public comments, Mr. Holland asked about efforts of VDACS to communicate to homeowners about the fire ant problem. Mr. Nichols

explained that educating the public was an important part of VDACS' on-going efforts to inform the public. Mr. Riddell noted the importance of cooperative efforts of VDACS and Virginia Cooperative Extension in this area.

Commissioner Haymore shared with the Board the comments of North Carolina Agriculture Commissioner Troxler who encouraged Virginia move more quickly than his state in containing the imported fire ant.

After asking once more for public comments on the proposed quarantine, Mr. Rogers closed the public hearing and, after a break, reconvened the Board's regular business meeting. (A court reporter recorded the hearing and will prepare a transcript that will be shared with the Board and made a part of the official record of the August 4<sup>th</sup> meeting.)

#### **FIRE ANT QUARANTINE (2 VAC 5-315)**

President Rogers called on Mr. Alvarez, who introduced Mr. Nichols, OPPS Manager. During his briefing, Mr. Nichols informed the Board of the actions taken by VDACS to inform the public and regulated parties of the proposed permanent quarantine 2 VAC 5-315 and presented the recommendation that the Board adopt a permanent fire ant quarantine to extend the temporary quarantine Commissioner Haymore adopted earlier in the summer. A copy of the proposed quarantine was sent to the Board before the meeting and included in the Board meeting folders.

Following the staff presentation and an opportunity for Board questions, Mr. Clarke moved that the Board adopt the proposed regulation concerning the Fire Ant Quarantine, 2 VAC 5-315, presented by staff today and that the Board authorize staff to take any and all steps necessary to make this a final regulation of the Board. Mr. Fleming seconded the motion and it passed unanimously.

#### **GASOLINE AND MOTOR FUEL REGULATIONS (2 VAC 5-420)**

President Rogers called on Mr. Alvarez, who briefed the Board on the need to file a Notice of Intended Regulatory Action for the Gasoline and Motor Fuel Regulations, 2 VAC 5-420. The Board was advised of changes in the Gasoline and Motor Fuel Law passed during the 2009 Session of the General Assembly that make it necessary to initiate regulatory action to consider the continued need and effectiveness of 2 VAC 5-420. Staff noted that the current regulations will probably need to be repealed.

Following an opportunity for questions and comments, Mr. Clarke moved that the Board authorize staff to take any and all actions necessary to file, on behalf of the Board, a Notice of Intended Regulatory Action concerning the Regulations for the Enforcement of the Virginia Gasoline and Motor Fuel Law, 2 VAC 5-420. Mr. Ellis seconded this motion and it was passed by a unanimous vote.

### **RETAIL FOOD ESTABLISHMENT REGULATIONS (2 VAC 5-585)**

President Rogers called on Dr. Richard Wilkes, Director, Division of Animal and Food Industry Services, who introduced Ryan Davis, Manager of the Office of Dairy and Foods. Mr. Davis reviewed with the Board the actions taken to develop the proposed final regulations, including the filing and publication of a notice of soliciting public comments, the holding of a public hearing on May 21 to seek more comments, and the review and analysis of public comments. It was noted that a copy of the proposed regulations as they were published in The Virginia Register of Regulations (with a summary statement), and a copy of the transcript of the May 21<sup>st</sup> public hearing were sent to the Board prior to the August 4<sup>th</sup> meeting and included in the Board meeting folders. Mr. Davis advised the Board that the proposed final regulations are moving through an abbreviated regulatory process established in law by the General Assembly. It was noted that the Board of Health and the Virginia Department of Health are following a similar process to adopt final retail food establishment regulations which, by law, must be effective on the same date as the proposed final regulations 2 VAC 5-585.

Following the staff presentation and comments, Mr. Ellis moved that the Board 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 the staff coordinate with the staff of the Virginia 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 the retail food establishment regulations adopted by the Board of Health. Mr. Bain seconded the motion and it was passed unanimously.

### **BOARD OF DIRECTORS OF VIRGINIA WINERY DISTRIBUTION COMPANY**

President Rogers called on Commissioner Haymore who advised the Board that Section 3.2-102 of the Code of Virginia authorizes the Board of Agriculture and Consumer Services to appoint persons to serve on the Board of Directors of the Virginia Winery Distribution Company (VWDC) based on industry nominations. The Commissioner then advised the Board that it has been asked to appoint a person who is an owner or manager of a winery or farm winery licensee that produces no more than 10,000 cases per year to serve on VWDC's Board of Directors. The Commissioner then presented the recommendation of the Virginia Wineries Association that Jim Corcoran of Waterford, Virginia, be considered for appointment as a person who is an owner or manager of a winery or farm winery licensee that produces no more than 10,000 cases per year for a term of office through June 30, 2013. The Commissioner called the Board's attention to Mr. Corcoran's resume included in the Board meeting folders.

Following the Commissioner's briefing, Mr. Clarke moved that the Board appoint Jim Corcoran of Waterford, Virginia, to the Board of Directors of the Virginia Winery Distribution Company as a owner or manager of a winery or farm winery licensee that

produces no more than 10,000 cases per year, and that Mr. Corcoran serve a term of office through June 30, 2013. Mr. Fleming seconded the motion and it was passed by a unanimous vote.

### **VIRGINIA AGRICULTURAL STATISTICS REPORT**

President Rogers called on Herman Ellison, Director, Virginia State Office of the National Agricultural Statistics Service (NASS), who presented a report on surveys conducted by NASS. Mr. Ellison also advised the Board of the opportunity to submit suggestions for the 2012 Ag Census through the August 28 deadline. During his presentation, he introduced Ben Craig of his staff who works with a number of projects including the rotational surveys program.

### **NEW BUSINESS**

Mr. Sturgis commented that nursery owners on the Eastern Shore would like to provide financial support for state efforts to eradicate imported fire ants from the Eastern Shore to avoid having that area included in the state's quarantine area. Mr. Blankenship indicated that VDACS is looking into the mechanics of accepting funds for such purposes.

Mr. Sturgis advised the Board that some of the press reports had presented a one-sided picture concerning the plasticulture issue which was raised at the State Water Control Board's August 23<sup>rd</sup> meeting. He suggested that the SWCB be invited to come to the Eastern Shore to see what tomato producers are doing to protect water quality.

After some discussion, Mr. Sturgis moved that the Board invite the SWCB via a letter from President Rogers to further investigate the issues relating to plasticulture production on the Eastern Shore before initiating the process for adopting new regulations such operations and to participate in a tour of tomato production areas on the Shore before the October 23<sup>rd</sup> meeting the SWCB has scheduled. Mr. Bain seconded the motion and was carried a unanimous vote.

### **PLANS FOR BOARD TOUR**

President Rogers called on Mr. Ellis who reviewed plans for the Board dinner that evening and the Board tour the next day that will include as one of its stops a visit to Montague Farms.

### **MONTAGUE FARMS TOUR**

President Rogers called on Brian Taliaferro of Montague Farms who told the Board that the group was meeting in the old Essex County Courthouse and that this courthouse was the oldest, dated, documented courthouse in Virginia. Mr. Taliaferro introduced Jay Taliaferro, who gave an overview of Montague Farms' operations.

### **FUTURE BOARD MEETINGS**

President Rogers called on the Secretary who advised the Board of the following dates for future meetings:

December 3, 2009  
March 18, 2010  
May 20, 2010  
Summer Meeting/Tour (need a volunteer to host)  
December 9, 2010

### **PUBLIC COMMENT PERIOD**

Patrick Weakland, a resident of Richmond County and a member of the Board of the Virginia Voters for Animal Welfare, presented the Board with a letter which asked (1) “what the Board and the agencies of the Department of Agriculture are doing to ensure that the animal welfare laws of Virginia are being enforced diligently”, (2) whether “the animals for whom such laws have been promulgated are receiving proper care including medical care in all custodial facilities mandated by the Code of Virginia”, (3) whether “penalties that have been mandated legislatively for infractions of animal welfare law” are “being applied and collected wheresoever infractions appear”, and (4) “if it has been the decision of the Board not to impose penalties or to direct its agencies away from vigorous enforcement of the animal welfare laws of Virginia, where such authority is provided by the Code?” Mr. Weakland gave the following contact information: 1539 Three Way Road, Warsaw, VA 22592 and [nnaat@aol.com](mailto:nnaat@aol.com). He then invited members of the Board and Dr. Wilkes to contact him to address these questions.

President Rogers told Mr. Weakland that he would get a response. Mr. Bain told Mr. Weakland that the Board is listening to him and understands his concerns.

Lois Smith of the Virginia Independent Consumers and Farmers Association asked that Commissioner Haymore and the Secretary of Agriculture and Forestry participate in a listening session with VIFCA for farmers. Ms. Smith stated that she would be writing a letter to the Board and Commissioner regarding such a session.

Pearce Gardner of Dunnsville told the Board about his need to have a local facility where his farm-processed meat can be inspected for direct sale to consumers. He explained that he and other farmers in his area cannot use custom slaughter facilities and have to drive up to two hours one-way to a distant facility where their processed meat can be processed to meet government inspection requirements. He asked for the Board’s help in having current government inspection requirements changed to allow farmers to have their meat inspected closer to their farms. He suggested that the state develop a two-tier structure that would provide more flexibility in the inspection requirements. He asked that someone from the Board or VDACS contact him to follow-



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up his request. He provided the following contact information: 575 Sunnyside Lane, Dunnsville, VA 22454; [pearcegardner@gmail.com](mailto:pearcegardner@gmail.com); and 804/366-3383.

**ADJOURNMENT**

There being no further business, the board adjourned at 3:35 p.m.

Respectfully submitted,

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Paul W. Rogers, Jr., Board President

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Roy E. Seward, Board Secretary