

**Virginia Soil and Water Conservation Board  
Monday June 12, 2023, 10:00 a.m.  
Virginia Farm Bureau Federation, Glen Allen, Virginia**

**TIME AND PLACE**

The meeting of the Virginia Soil and Water Conservation Board took place at 10:00 a.m. on Monday, June 12, 2023, at the Virginia Farm Bureau Federation offices in Glen Allen, Virginia.

**VIRGINIA SOIL AND WATER CONSERVATION BOARD MEMBERS PRESENT**

Adam D. Wilson, Vice Chair  
Jay C. Ford  
Dr. Stephen R. Hill  
Charles Newton  
Pamela Mason  
Dr. Dahlia O'Brien  
Andrew Smith for Matthew S. Wells, DCR Director, Ex Officio  
John Womack for Dr. Edwin Martinez, NRCS, Ex Officio

**VIRGINIA SOIL AND WATER CONSERVATION BOARD MEMBERS NOT PRESENT**

Charles A. Arnason, Chair  
Two vacancies

**DCR STAFF PRESENT**

Darryl Glover, Deputy Director for Dam Safety and Floodplain Management and Soil and Water Conservation  
James Martin, Director, Division of Soil and Water Conservation  
Christine Watlington Jones, Policy and District Services Manager  
Michael R. Fletcher, Board Liaison  
Rebecca Jones, Senior Public Relations and Marketing Specialist  
Darrell Kuntz, OAG

**OTHERS PRESENT**

Martha Moore, Virginia Farm Bureau Federation  
Dr. Kendall Tyree, VASWCD

**ESTABLISHMENT OF A QUORUM**

With six (6) members of the Board present, a quorum was established.

**CALL TO ORDER AND INTRODUCTIONS**

Mr. Wilson called the meeting to order at 10:04 a.m. and called for introductions. He expressed appreciation to the Farm Bureau Federation for hosting the meeting.

**APPROVAL OF MINUTES FROM APRIL 27, 2023**

**BOARD ACTION**

Mr. Newton moved that the minutes of the April 27, 2023, meeting of the Virginia Soil and Water Conservation Board be approved as submitted. Ms. Mason seconded, and the motion carried.

**APPROVAL OF MINUTES FROM MAY 25, 2023**

**BOARD ACTION**

Ms. Mason moved that the minutes of the May 25, 2023, meeting of the Virginia Soil and Water Conservation Board be approved as submitted. Dr. Hill seconded and the motion carried.

**DAM SAFETY DIVISION**

*Approval of projects funded by the Dam Safety, Flood Prevention and Protection Assistance Fund – Christine Watlington Jones, Policy and District Services Manager, DCR*

Ms. Watlington Jones advised that there were two motions for this agenda item:

- One motion is provided for each funding source (general fund or federal American Rescue Plan Act of 2021 funds).
- There were 7 denied applications requesting a total of \$16,205; applications were ineligible dams or ineligible activities.

**Projects Funded through General Fund Deposit**

Ms. Watlington Jones gave an overview of the recommended projects:

- 91 grant applications, requesting an approval amount of \$498,061.22.
  - The applications were from recipients of letters of engagement.
    - Projects include:
      - Dam break inundation zone analysis, mapping, and digitization
      - Emergency plan development
      - Professional engineer inspection
- These projects are administered in cooperation with Virginia Resources Authority.

**BOARD ACTION**

Ms. Mason moved the following:

The Virginia Soil and Water Conservation Board approves the 91 grant applications, with an approval amount of \$498,061.22, as recommended by the Department. Approval of these grants is conditioned on the following:

1. All grants are made on a reimbursement basis and will be governed by a Grant Agreement developed in consultation with the Virginia Resources Authority. All applicants will be given a period of 90 days to enter into a Grant Agreement following the Agreement being sent. The Department of Conservation and Recreation (Department) is authorized to further extend this date in its discretion and following consultation with VRA.
2. All grant agreements will require that projects be completed within 24 months of the date of execution of the Agreement. Upon receipt of a written request for a project extension with a specified completion date by the Grantee to the Department with a copy to VRA, the Department is authorized to consider such request and may amend the terms of the Agreement and allow a specified extension upon the Department's and the Authority's written approval. Extension requests must be received by the Department not later than 90 days prior to the expiration of the original agreement or grant funds are subject to rescission at the Department's discretion. No extensions shall exceed an additional year without specific Board approval.
3. In the event that any of the above applicants fail to execute a Grant Agreement with VRA within 90 days of such an Agreement being sent to the applicant, the Department, in consultation with VRA, is authorized to rescind those grant funds and allocate in subsequent grant rounds.

The Department is authorized to communicate this approval to the Virginia Resources Authority (VRA) so that VRA's review of applications may proceed. The Department is also authorized to take any action necessary to proceed with the closing and administration of grants subsequent to VRA's approval of the application.

Mr. Newton seconded.

Dr. Hill asked for clarification concerning the projects and the submission of necessary information.

Ms. Watlington Jones replied that this pool of funding was for dams where DCR does not have sufficient information. The individuals that are anticipated to be considered the owners of the dam received letters from the Department requesting additional information about the dam and encouraging the owners to apply for grant funds under this Fund. The Department does not know if these dams are of regulatory size, what structures or houses might be impacted if the dam fails, or what condition the dam is in. She further advised that for many dam owners the main impediment to repairs and maintenance is the financial burden. The Department must weigh the need to protect public safety against the fairness of providing grant money to people who are not complying with the law. She noted that grant recipients must provide a 50% match to funds received.

Mr. Wilson commented that this was an important step toward gathering the necessary information regarding the classification of these dams.

The motion carried.

Projects funded by the American Rescue Plan Act of 2021 funds

Ms. Watlington Jones noted the following:

Chapter 769, 2023 General Assembly Acts of Assembly; Item 486 f.7

\$10,000,000 in the first year to the Department of Conservation and Recreation (199) for improvements to identified high hazard water impounding structures consistent with the provisions of the Dam Safety, Flood Prevention, and Protection Assistance Fund established pursuant to §10.1-603.17, Code of Virginia.

- 17 grant applications, with an approval amount of \$2,367,480
  - Projects include:
    - Dam repair, safety modifications or removal
    - Plans, specifications, and engineering studies and designs
- These projects are administered by the Department only.

BOARD ACTION

Mr. Newton moved the following:

The Virginia Soil and Water Conservation Board approves the 17 grant applications, with an approval amount of \$2,367,480, as recommended by the Department. Approval of these grants is conditioned on the following:

1. All grants are made on a reimbursement basis and will be governed by a Grant Agreement. All applicants will be given a period of 90 days to enter into a Grant Agreement following the Agreement being sent. The Department of Conservation and Recreation (Department) is authorized to further extend this date in its discretion.
2. All grant agreements will require that projects be completed within 24 months of the date of execution of the Agreement. Upon receipt of a written request for a project extension with a specified completion date by the Grantee to the Department, the Department is authorized to consider such request and may amend the terms of the Agreement and allow a specified extension upon the Department's written approval. Extension requests must be received by the Department not later than 90 days prior to the expiration of the original agreement or grant funds are subject to rescission at the Department's discretion. No extensions shall exceed an additional year without specific Board approval.
3. In the event that any of the above applicants fail to execute a Grant Agreement within 90 days of such an Agreement being sent to the applicant, the Department is authorized to rescind those grant funds and allocate in subsequent grant rounds.

Mr. Ford seconded, and the motion carried.

**SOIL AND WATER CONSERVATION DIVISION**

*Approval of Board Policy on Soil and Water Conservation District Administration and Operations Funding for Fiscal Year 2024 – Christine Watlington Jones*

Ms. Watlington Jones advised that there were no changes to the draft policy as presented in April. No additional comments were received.

**BOARD ACTION**

Mr. Newton moved that the Virginia Soil and Water Conservation Board approve the Policy on Soil and Water Conservation District Administration and Operations Funding Allocations for Fiscal Year 2024.

Mr. Ford seconded, and the motion carried.

*Approval of Administration and Operations Support Grant Agreement for Fiscal Year 2024 – Christine Watlington Jones*

Ms. Watlington Jones advised that there were no changes or comments from the versions presented in April.

Ms. Mason moved that the Virginia Soil and Water Conservation Board approve the Department of Conservation and Recreation and Virginia Soil and Water Conservation District Administration and Operational Support Grant Agreement.

Mr. Ford seconded.

Mr. Ford asked how potential budget amendments would impact the funding.

Ms. Watlington Jones advised that it would depend on the timeline. She noted that there is an FY2024 budget approved. The General Assembly may still be discussing possible additions to the funding. If additional funding is approved to provide additional administrative support for Districts, that would be brought before the Board at a future meeting.

There was no further discussion and the motion carried.

*Approval of Board Policy on Soil and Water Conservation District Cost-Share and Technical Assistance Funding Allocations for Fiscal Year 2024 – Christine Watlington Jones*

Ms. Watlington Jones advised that the following revisions had been made to the document since the April meeting.

1. consistent use of the term "unobligated"; there are a couple instances where "unobligated" and "unallocated" were used interchangeably.

2. After discussions with the Pittsylvania District, their FY2024 allocation has been reduced and the difference in their allocation has been evenly reallocated to those Districts participating in the Whole Farm Approach that are outside of the Chesapeake Bay watershed.

Dr. Hill moved the following:

The Virginia Soil and Water Conservation Board approves the Policy and Procedures on Soil and Water Conservation District Cost-Share and Technical Assistance Funding Allocations (Fiscal Year 2024).

Additionally, the Culpeper Soil and Water Conservation District is authorized to utilize up to \$500,000 of the District's "FY24 Cost-Share Total (VACS)" allocation to incentivize the implementation of the soil health pilot best management practice (SL-10E) as it was approved by this Board.

Ms. Mason seconded, and the motion carried.

*Approval of Cost-Share and Technical Assistance Grant Agreement for Fiscal Year 2024*

Ms. Watlington Jones advised that there were no changes from the version of this document presented at the April meeting.

Mr. Ford moved that the Virginia Soil and Water Conservation Board approve the Department of Conservation and Recreation and Virginia Soil and Water Conservation District Cost-Share and Technical Assistance Grant Agreement for Fiscal Year 2024.

Mr. Newton seconded, and the motion carried.

*District Director Appointments and Resignations – Christine Watlington Jones*

Ms. Watlington Jones advised that there were no recommended appointments but noted two resignations:

Hanover-Caroline

Resignation of Mr. Don Wells, of Hanover County, effective 4/11/2023, elected director (term of office expires 12/31/2023).

Tri-County/City

Resignation of Mrs. Giannina DiMaio Frantz, of Fredericksburg, effective 05/19/2023, elected director (term of office expires 12/31/2023).

**BOARD ACTION**

Dr. O'Brien moved that the Virginia Soil and Water Conservation Board acknowledge the District Director resignations as presented by staff.

Dr. Hill seconded and the motion carried.

*Initiation of periodic review of the Resource Management Plan Regulations (4VAC50-70) – Christine Watlington Jones*

Ms. Watlington Jones advised that the last periodic review of the Resource Management Plan Regulations was conducted in 2019. She noted that the review provides producers, Districts, plan developers, and the public an opportunity to provide comment on the entire regulations. Based on comments received, the Department will make a recommendation to the Board regarding any possible regulatory action.

**BOARD ACTION**

Ms. Mason moved that the Virginia Soil and Water Conservation Board approve the initiation of a periodic review of the Resource Management Plan Regulations (4VAC50-70). The periodic review shall be conducted in accordance with the procedures established by the Office of Regulatory Management and all other applicable laws, policies, and procedures.

Dr. Hill seconded, and the motion carried.

*Approval of Revisions to VACS Contract – Christine Watlington Jones*

Ms. Watlington Jones advised that over the last several months, the Office of the Attorney General, in consultation with several Districts, has been reviewing the VACS contract. Recommended revisions were provided to members. These revisions provide producers with more clearly articulated responsibilities; more clearly outlines what documentation the Districts are required to provide to the producer; and strengthens the enforcement capabilities of Districts and the Office of the Attorney General in the event a practice is not maintained or removed.

Ms. Watlington Jones advised that the majority of the changes were based on recommendations from the Office of the Attorney General.

Mr. Glover noted that the revisions were necessary due to some weaknesses in the contract. These changes make the contract more easily enforceable and will ensure that approved plans and BMP specifications are followed.

Mr. Ford asked if this would be an impediment to recruitment.

Mr. Martin responded that a producer sensitive to contracts and lawyers may be hesitant to sign but noted that is also possible with the existing contract.

**BOARD ACTION**

Mr. Ford moved that the Virginia Soil and Water Conservation Board approve the FY2024 Virginia Agricultural Cost-Share Program Contract as presented.

Mr. Newton seconded, and the motion carried.

**OLD BUSINESS**

There was no old business.

**NEW BUSINESS**

Ms. Watlington Jones advised that, at the September meeting, the Department may recommend extensions for current projects funded through the Dam Safety, Flood Prevention and Protection Assistance Fund. Typically, projects are given two years to complete. In the previous round they were given 12 months. The Department will determine how many dam owners may need extensions.

**CLOSED SESSION**

Mr. Ford moved the following:

The Virginia Soil and Water Conservation Board hereby resolves to discuss the following subject matter in closed session: consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, namely advice regarding elections and appointments for members of Soil and Water Conservation District boards of district directors. This subject matter is exempted from open meeting requirements under Va. Code § 2.23711 (A)(8).

Ms. Mason seconded.

The roll call vote was as follows:

Aye: Wilson, Newton, Ford, Hill, Mason, O'Brien.

Nay: None

Abstain: None

The motion carried.

The Board requested that the following staff participate in the closed session:

- Andrew Smith, Chief Deputy Director, on behalf of Matthew S. Wells, DCR Director
- Christine Watlington Jones, Policy and District Services Manager
- Darrell Kuntz, Office of the Attorney General

The Board convened in closed session in a separate location.

Upon their return, Ms. Mason moved that the Board and staff affirm the following:

To the best of your knowledge, did the Board restrict its hearing, discussion, and consideration in closed session to: (1) only public business matters lawfully exempted from open meeting requirements under this chapter and (2) only such public business matters as were identified in the motion by which the closed meeting was convened?



Mr. Newton seconded, and the Exit Poll was as follows:

Aye: Adam Wilson  
Charles Newton  
Dr. Stephen Hill  
Jay Ford  
Pamela Mason  
Dr. Dahlia O'Brien  
Andrew Smith  
Christine Watlington Jones  
Darrell Kuntz

Mr. Wilson advised that in closed session with legal counsel, the Board discussed two resolutions, a longer version and shorter version related to the upcoming District Director elections. There have been questions about the eligibility of District Directors who do not seek to run for re-election, or those seeking to run but choosing not to because of the election process, to be appointed to vacant positions by the Board. The resolutions seek to encourage Directors to follow the legal process set out in the Code of Virginia and state the Board's intent on how vacant elected positions will be handled.

Ms. Mason advised that, to begin the discussion, she would prefer the longer version noting that the Board is asking the General Assembly to consider modifying the process for someone to become a candidate for the office of District Director.

Dr. O'Brien seconded.

Mr. Wilson called for further discussion.

Mr. Ford noted that, while he understood the conundrum, he was uncomfortable with asking the electoral system to adjust expectations due to the fear of not having enough interested people run for office. He commented that an elected position should follow the election process established in law. He noted that he favored the idea of not appointing individuals who choose not to stand for office.

Mr. Newton commented that the difficulty with the present law and requirements lies mainly with the financial process that requires establishing a separate bank account and filing reports, even if the candidate does not intent to raise or accept campaign funding.

Mr. Newton also expressed concern about taking this action one week prior to the filing deadline for candidates.

Mr. Ford advised that he would prefer to strike the language asking the General Assembly to amend the existing law. He offered that as an amendment to the motion.

Ms. Mason seconded the motion to amend and the motion passed.

Mr. Newton reiterated that he agreed with the spirit of the resolution, but he believed that the timing was unreasonable.

Mr. Wilson called for the vote. The amended resolution read as follows:

**VIRGINIA SOIL AND WATER CONSERVATION BOARD**

**Resolution Regarding Elections for Directors for Soil and Water Conservation Districts**

**June 12, 2023**

**WHEREAS**, § 10.1-515 of the Code of Virginia establishes soil and water conservation districts, to be governed by boards of district directors, a majority of whom are to be popularly elected by the people of those districts, and a minority of whom are to be appointed by this Board; and § 10.1-530 allows for this Board to make additional appointments to fill vacancies on the boards of district directors of Virginia's soil and water conservation districts;

**WHEREAS**, on April 7, 2020, the General Assembly approved Senate Bill 979, requiring every candidate for director of a soil and water conservation district to file campaign finance disclosure reports that, previously, had only been required of state and local legislators and executive officers;

**WHEREAS**, the added stringency of these new campaign finance requirements for soil and water conservation district directors is a source of concern to many elected directors and candidates;

**WHEREAS**, strategies have been discussed to avoid these campaign finance disclosure requirements, whereby directors would decline to run for office and then seek appointment by this Board to their prior positions on the boards of district directors, under the assumption that no candidate will run for that position and that a vacancy will thereby be created;

**WHEREAS**, the Virginia Soil and Water Conservation Board shares the concern over the added stringency of these campaign finance regulations, but is also concerned that a director's plan to continue for another term in office without running for reelection would ultimately undermine the system of popularly electing such directors, as envisioned by the General Assembly in § 10.1-515 of the Code of Virginia;

**WHEREAS**, candidates are essential to a vibrant and healthy democracy; qualified and competent directors are essential to the function of soil and water conservation districts; and when qualified candidates decline to run for office under the hope of being appointed to fill vacancies, this strategy gambles with the possibility that a less qualified person will file for candidacy toward the end of the filing deadline on June 20, 2023, and will win election by default as the only candidate;

**NOW THEREFORE, BE IT RESOLVED** by the Virginia Soil and Water Conservation Board, that the Board commends and thanks the directors of soil and water conservation districts for their vital service to the people of Virginia and their commitment to the stewardship of the Commonwealth's environmental resources;

**BE IT FURTHER RESOLVED**, that because such service is so essential, this Board urges directors who wish to continue in office to shoulder the burden of candidacy, and to seek reelection according to the democratic process laid out by the General Assembly;

**BE IT FURTHER RESOLVED**, that this Board (without restricting its future power to make appointments) expresses that it does not intend to appoint directors to the local soil and water conservation districts who were previously elected to those offices and who chose not to seek reelection in the most recent election cycle; and

**BE IT FURTHER RESOLVED**, that this Board encourages the General Assembly to consider amending the Code of Virginia to reduce the stringency of the requirements for candidates exempted under § 24.2-948.1.

The vote was as follows:

Aye: Wilson, Mason, Ford, Hill, O'Brien

Nay: Newton

The resolution was adopted by a vote of 5 Ayes to 1 Nays, with 0 Abstentions.

Ms. Watlington Jones advised that the Department would conduct a conference call with Conservation District Coordinator so that Department staff would be aware of this resolution. Additionally, Ms. Gordon will send this out to district administrators and district directors by the end of the day.

#### **PUBLIC COMMENT**

There was no public comment.

#### **NEXT MEETINGS**

- September 2023
- December 6, 2023, Norfolk, Virginia

#### **ADJOURN**

There was no further business and the meeting adjourned at 11:50 a.m.