

FINAL MINUTES

Board of Agriculture and Consumer Services
Eastern Shore of Virginia Chamber of Commerce
19056 Industrial Parkway
Melfa, Virginia
July 14, 2010

The meeting convened at 2:00 p.m. on Wednesday, July 14, 2010, in the conference of the Eastern Shore of Virginia Chamber of Commerce at Melfa, Virginia. President Rogers called the meeting to order and led the group in prayer. The Board Secretary called the roll:

PRESENT

Stephen Ellis
Steve Sturgis
Paul W. Rogers, Jr.
William B. Bain
Robert Mills
Edward S. Fleming
Patrick A. Toulme
Charles C. Clark, Jr.
John D. Hardesty, Jr.
Melvin E. Murphy
Dr. Wondi Mersie
Dr. Saied Mostaghimi

DISTRICT

1st
2nd
3rd
4th
5th
7th
8th
9th
10th
11th

Representing Dr. Keith T. Miller, President, Virginia State University
Representing Dr. Charles W. Steger, President, Virginia Tech

ABSENT

Vacancy 6th

STAFF PRESENT

Matthew J. Lohr, Commissioner
Sandra J. Adams, Deputy Commissioner
Roy E. Seward, Board Secretary

APPROVAL OF MINUTES

Mr. Melvin Murphy made a motion that the minutes be approved as distributed. Mr. William Bain seconded the motion and the Board voted unanimously to approve the motion.

REPORT FROM BOARD MEMBERS

Mr. Mills advised in his report on weather conditions in his district that drought has hurt field crops and pastures and that farmers in the area are already feeding their livestock. He added that soybeans are pretty much a disaster. He explained that tobacco is a plant that can survive dry weather for a while but that tobacco is looking pretty rough in his area. He stated that ponds are low, that farmers are pumping water as hard as they can to irrigate, and that his district needs more rain to save the tobacco crop.

Mr. Ellis reported that rain stopped in his area in May. He noted that a lot of the corn in his area never tasseled and has burnt up by the heat and lack of precipitation. He added that farmers started cutting silage on July 4th to try to salvage some of the crop before it is completely dried out. He reported with the recent scattered showers soybeans should start growing again, but that half of the soybean crop never came up until this point.

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Mr. Hardesty reported that farmers in his district are having the same problems with the excessive heat and dry weather. He noted that the corn and soybean crops have been devastated by the drought. He added that the hay crop has been cut in half and pastures are dried up. He reported that peaches are small because of the lack of rain but that recent rains did help the apple crop.

Mr. Toulme thanked Mr. Sturgis for hosting the summer meeting and tour. He reported that the folks in northern Virginia have expressed an interest in the investigation that VDACS is currently conducting regarding a veterans charity organization, whether they have run afoul of Virginia's charitable solicitation laws, and whether they are a real charity or not. He noted that there is a large number of military personnel in northern Virginia and that folks in his district would like to have some light shown on this issue. He requested that VDACS staff make a report on the investigation at the next Board meeting.

Mr. Clark reported that his district was a little bit more fortunate than others concerning precipitation. He noted that his area has had plenty of rain that the hay crop and pasture look good and that contract cattle are moving west.

Dr. Mersie, representing Virginia State University (VSU) President Dr. Keith T. Miller, reported that Dr. Miller became the 13th President of Virginia State University on July 1, 2010. Dr. Mersie noted that on June 24, 2010, the Virginia Farm Bureau Federation's Emerging Agricultural Enterprises Advisory Committee visited VSU's Randolph Farm and held its regular meeting. He added that the committee toured the farm and that VSU staff briefed the committee on the University's research and extension activities directed at small farms. Dr. Mersie reported that Virginia State's 15th Agricultural Field Day is August 25, 2010. He stated the focus of the Field Day will be to explore the concept of value-added agriculture. He informed the Board that VSU President Dr. Miller and Commissioner Lohr will speak at this event.

Dr. Mostaghimi, representing Virginia Tech President Dr. Charles W. Steger, reported on Tech's efforts to recruit candidates for top-level positions at the University. He also reported on strategic planning relating to the programs and services of Virginia Cooperative Extension. He reported on Tech's plans for filling vacancies in critical areas.

Mr. Fleming reported that farmers in his district started out with the promise of a great corn crop, but things went down hill after many weeks without rain. He advised that farmers are now cutting their corn for silage. He reported that early beans are looking pretty good but that late beans, for the most part, have not come up. He noted that ponds in his district are getting low, cattle need water, and that farmers are starting to feed hay. On a more positive note, he reported that farmers markets are doing well and that people are excited about the availability of local foods. He added that there have been lots of comments about how people are looking more and more for foods that are organic.

Mr. Sturgis welcomed the Board members and their guests to the Eastern Shore. He thanked Cooperative Extension for helping to set up everything for the Board's visit to the Shore. He reported that farmers in his district had a bad wheat crop due to excessive rain as mentioned at the May Board meeting. Based on conversations with other farmers in his area, he estimates that the wheat crop is 20 percent less than normal. He advised the Board that his district is facing drought problems also. He added that there has been a lot of replanting and that soybeans are starting to take shape this week because of recent rain. He stated that farmers

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are having difficulty with the excessive heat and dry weather and that the soil is hard to handle. He noted, for example, that the corn is not forming ears. He reported that the excessive heat has impacted the snap bean crop and that potatoes are mid-way to harvest.

Mr. Bain reported that on June 1 his area probably had the prettiest corn crop in the state and, overall, could have been one of the best crops ever for his area and now his district is deep into drought. He reported that a crop insurance adjuster visited a couple of farms and decided that average yields would be one to two bushels to the acre. He added that his area has fields that would burn up if you struck a match. He indicated stalks are starting to fall down in the fields. He noted that some farmers in his area are growing barley for Osage plant in Hopewell but that yields are very disappointing. He advised that, based on conversations with different growers, wheat yields ranged from 20 to 80 bushels per acre. He reported that peanuts are beginning to bloom, and that, with proper weather, his area could have a pretty good crop. He noted that cotton has been hurt some. He commented that growth of soybeans has stunted and that even the early beans planted in May never got the growth they should have. He stated that farmers have been feeding hay to cattle for two weeks. He advised that tobacco growers have been pumping water hard for a month to irrigate crops and that some farms run out of water.

Mr. Murphy reported that the drought is hurting everyone---including those who are operating farmers markets. He noted that they are having some difficulty getting good produce to sell. He advised that he visited a local grocery store and noticed that the corn did not look very good. He added that he spoke with the store manager who told him that his company is having trouble locating good corn.

Mr. Rogers echoed what other board members have said about the impact of the drought on crops. He advised that there is still time for the soybean, cotton, and peanut crops in his area to be made provided there is sufficient precipitation before harvest.

INTRODUCTIONS

President Rogers introduced Bill Shockley of Virginia Cooperative Extension who reported on plans for the tour and other activities on the Eastern Shore in which the Board would be participating on July 15. The President also recognized former Board member and President Bennie Etheridge and noted that Bruce Holland, another former Board President was expected to be attending some of the events planned.

Mr. Rogers recognized Donna Pugh Johnson, President of the Virginia Agribusiness Council, who reported on the Council's six regional town hall meetings scheduled on July 12 (Blacksburg), July 19 (Warrenton), August 18 (Isle of Wight), August 25 (Doswell), September 13 (Weyers Cave), and September 27 (Farmville). Ms. Johnson noted that certain state legislators, Commissioner Lohr, representatives of the Department of Environmental Quality, and the Department of Conservation and Recreation are expected to participate in these meetings.

COMMISSIONER'S REPORT

Commissioner Lohr briefed the Board on personnel changes, recent and future events, and other matters relating to the Department of Agriculture and Consumer Services. A copy of a written report on which his presentation was based was included in the Board's meeting folders.

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VIRGINIA AGRICULTURAL STATISTICS REPORT

Herman Ellison, who heads the Virginia State Office of the National Agricultural Statistics Service (NASS) of the U. S. Department of Agriculture, reported on recent agricultural statistics reports released by NASS. Mr. Ellison reported on the dry conditions impacting Virginia's farms.

REPORT ON BEACH VITEX QUARANTINE EXPANSION

Andy Alvarez, Director of the Division of Consumer Protection, introduced Larry Nichols, Manager of the Office of Plant Industry Services, who reviewed with the Board the Commissioner's action on July 2, 2010, to expand the Beach Vitex Quarantine to include the entire state. (It is noted that the authority for expanding the quarantine is provided by Section 3.2-703 of the Code of Virginia. The review of this action was made at the July 14th meeting to comply with the requirement of that section that the expansion or reduction in the regulated areas covered by the quarantine be reviewed by the Board at its next regularly scheduled meeting and that the review occur within 90 days of the Commissioner's action.)

REPORT ON EMERALD ASH BORER QUARANTINE EXPANSION

Mr. Alvarez called on Mr. Nichols who reviewed with the Board the Commissioner's action on July 7, 2010, to expand the Emerald Ash Borer Quarantine to include the following additional localities: Clarke County, Frederick County, and City of Winchester. In his comments, Mr. Nichols advised the Board that neighboring West Virginia has put a quarantine for the Emerald Ash Borer in place.

REPORTS ON WEIGHTS & MEASURES CIVIL PENALTY APPEALS

President Rogers advised that the Board needs to take action concerning two reports from hearing officer Erin Williams relating to two appeals to civil penalties assessed by VDACS for violations under the Virginia Weights and Measures Law.

Fairfield Texaco Appeal

President Rogers noted that copies of Ms. Williams' report and findings on the Fairfield Texaco appeal and the agency record of the appeal were sent to Board members prior to the July 14th meeting and that copies are included in the meeting folders. It was also noted that on June 11, 2010, VDACS sent Ann McDonald, Manager, Fairfield Texaco, a notice that Ms. Williams' report and findings regarding her company's appeal to VDACS' civil penalty assessment of \$1500.00 would be considered at the July 14th meeting of the Board. When President Rogers asked if anyone from Fairfield Texaco was present to speak on behalf the company, no one responded.

President Rogers called on Mr. Alvarez who reviewed with the Board Ms. Williams' report and findings. Mr. Alvarez noted that Ms. Williams did find that there were violations of the law. It was also noted that Ms. Williams recommended that the agency adjust the total points and penalty amounts as follows:

Violation MF 2010-223	Total Points -13	Penalty Amount - \$250.00
Violation MF 2010-225	Total Points - 18	Penalty Amount - \$750.00

After comments from Mr. Alvarez and questions from the Board, President Rogers called on Steven Jack, Assistant Attorney General, who advised the Board generally on the actions it may take on Ms. Williams' report and findings on the Fairfield Texaco appeal.

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Following Mr. Jack's comments, Mr. Clark moved that the Board accept the report of hearing officer Erin Williams and her findings that there were violations by Fairfield Texaco. Mr. Murphy seconded the motion and it was carried by a unanimous vote.

Mr. Ellis moved that the Board accept the recommendation of hearing officer Erin Williams to adjust the total points assessed to 31 and the total civil penalty assessed to \$1,000.00. Mr. Fleming seconded the motion and it was carried by a unanimous vote.

Moore Scale Service Appeal

President Rogers noted that copies of Ms. Williams' report and findings on the appeal of Moore Scale Service of Western Virginia, Inc., and the agency record of the appeal were sent to Board members prior to the July 14th meeting and that copies are included in the meeting folders. It was also noted that on June 11, 2010, VDACS sent Ralph W. White of Moore Scale Service a notice that Ms. Williams' report and findings regarding his company's appeal to VDACS' civil penalty assessment of \$160.00 would be considered at the July 14th meeting of the Board. When President Rogers asked if anyone from Moore Scale Service was present to speak on behalf the company, no one responded.

President Rogers called on Mr. Alvarez who reviewed with the Board Ms. Williams' report and findings concerning the appeal of Moore Scale Service. Mr. Alvarez noted that Ms. Williams did find that there were violations of the law. It was also noted that Ms. Williams recommended that the agency's civil penalty assessment of \$160.00 stand.

After comments from Mr. Alvarez and Mr. Jack and questions from the Board, Mr. Bain moved that the Board accept the report of hearing officer Erin Williams and her findings that there was a violation by Moore Scale Service of Western Virginia, Inc. Mr. Murphy seconded the motion and it was carried by a unanimous vote.

Mr. Fleming moved that the Board accept the recommendation of the hearing officer Erin Williams that the civil penalty assessment of \$160.00 stand. Mr. Mills seconded the motion and it was passed by a unanimous vote.

BRIEFING ON AGRICULTURE & FOREST DEVELOPMENT SERVICES

President Rogers introduced Robins Buck, a native of the Eastern Shore, who serves as Manager of Agriculture and Forest Development Services (AFDS) in the Division of Marketing. Mr. Buck talked about the work of AFDS in supporting the development of Virginia's agricultural and forestry industries.

BRIEFING ON PLANT PATHOLOGY PROGRAM

Mr. Alvarez introduced Norman L. Dart, Plant Pathologist, with the Division of Consumer Protection, who presented the Board an overview of the Plant Pathology Program.

NEW BUSINESS

Mr. Seward advised the Board that a public hearing would need to be held in late September to provide the public an opportunity to comment on the Board's proposal to repeal 2 VAC 5-540, the Carbonated and Still Water Bottling Plants and Beverages Regulation. He noted that Governor McDonnell has authorized the publication of a public notice of the Board's proposal to repeal this regulation.

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Following discussion by the Board, Mr. Clark moved that the Board hold a public hearing on the proposed repeal of this regulation during the week of September 27, 2010, and that a member of the Board preside at the hearing, which would be attended by Commissioner Lohr, the Board Secretary and other key staff. Mr. Ellis seconded the motion and it was carried by a unanimous vote.

Mr. Murphy agreed to attend and preside at the hearing on Thursday, September 30, 2010. Mr. Fleming indicated that he would serve as an alternate to Mr. Murphy in case Mr. Murphy was unable to preside at the hearing.

President Rogers asked Board members to send him their ideas/suggestions for improving Board meetings.

Commissioner Lohr introduced VDACS staff members who were present at the Board meeting.

Mr. Mills reported that folks in his district are very concerned about the proposal of the Board of Game and Inland Fisheries (BGIF) to re-introduce elk in Virginia. It was noted that Board President Rogers wrote to the head of the Department of Game and Inland Fisheries (DGIF) in December 2009 to express the Board's concerns about the re-introduction of elk and how it would create serious problems for Virginia's livestock industry. During the discussion, Mr. Sturgis indicated that he would contact members of the BGIF to advise them of the concerns farmers in his area have for the proposed re-introduction of elk.

At Commissioner Lohr's request, Dr. Wilkes briefed the Board on the recent meeting VDACS had with DGIF at which VDACS echoed the concerns of the Board regarding the proposal to re-introduce elk to Virginia. The Commissioner noted that the BGIF is scheduled to consider this proposal at its August meeting.

PLANS FOR FUTURE BOARD MEETINGS

President Rogers advised the Board that the last meeting of the Board for the year is scheduled for December 9, 2010 in Richmond. He noted that tentative dates for meetings in 2011 are March 24, May 19 and December 8. Mr. Mills volunteered to host next year's summer meeting and tour in his area.

PUBLIC COMMENT PERIOD

Mr. Bain noted that Virginia farmers have faced several drought years in recent times. He stated that farmers need real help in responding to the drought losses rather than the offer of low-interest federal loans. He also expressed concern about what may happen to the federal crop insurance program when Congress begins working on the 2012 Farm Bill.

ADJOURNMENT

There being no further business, the Board adjourned at 4:45 p.m.

Respectfully submitted,

Paul W. Rogers, Jr., Board President

Roy Seward, Board Secretary