

FINAL MINUTES

Board of Agriculture and Consumer Services
Pocahontas Building
Richmond, Virginia
Thursday, March 27, 2014

The meeting of the Board of Agriculture and Consumer Services (Board) convened at 9:00 a.m. on Thursday, March 27, 2014, in the Auditorium of the Pocahontas Building at 900 East Main Street in Richmond, Virginia. President Sturgis called the meeting to order. At the President's request, Mr. Mills gave the invocation.

The Board Secretary called the roll:

PRESENT

Stephen Ellis
Steve Sturgis
Shelley Barlow
William B. Bain
Robert J. Mills, Jr.
Rosalea R. Potter
L. Wayne Kirby
John R. Marker
Elizabeth L. White
Kevin J. Kordek
Dr. Keith T. Miller
Lonnie Johnson

DISTRICT

1st
2nd
3rd
4th
5th
6th
7th
10th
Pesticides – Commercial Agricultural
Pesticides – Commercial Structural
President, Virginia State University
Representing Dr. Charles W. Steger,
President, Virginia Tech

ABSENT

Vacant Position
Dr. Mark A. McCann
L. Kirk Wiles, III

8th
9th
11th

STAFF PRESENT

Sandra J. Adams, Acting Commissioner, Virginia Department of Agriculture and Consumer Services
Kevin E. Schmidt, Board Secretary

APPROVAL OF MINUTES

Mr. Mills moved that the draft minutes of the December 5, 2013, meeting be approved as distributed. Mr. Ellis seconded the motion, and it was passed by a unanimous vote.

REPORT FROM BOARD MEMBERS

Mr. Ellis reported that the weather had been cold. He said that the crop work is behind but that this may be a good thing given that if the small grains had matured any sooner the cold would have damaged them. As a result there is a lot of catching up to do. Mr. Ellis also mentioned that issues related to spray drift may need to be addressed by the Board in the future.

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Ms. Barlow mentioned that the weather has been cold and wet. She indicated that the small grain crops are improving and looking better, but on her farm they are not looking good. Overall they had two great production years and there is concern that they are due for a bad year. Prices are a concern as well, and farmers are watching the market. Cotton prices, for instance, were up and down over the last week. She mentioned that her area was fortunate to have the National Cotton Council sponsor a meeting about the new Farm Bill. The meeting had approximately 300 participants and was informative. Ms. Barlow also mentioned that she attended the first Agriculture and Forestry Industries Development Fund (AFID) announcement by Governor McAuliffe at Montague Farms in Isle of Wight County.

Ms. Potter agreed that the weather has been wet and muddy. She said that the “polar vortex” hit their area though the amount of snow varied widely depending on where you were located. The main concern from farmers in her area is cattle prices. This is a good time to be selling cattle and a bad time to be buying them. Ms. Potter also mentioned that she attended the Virginia Food and Beverage Expo both as a vendor and a Board member. She stated that she felt that the buzz word for people visiting her booth was genetically modified organisms (GMO) and that buyers want to know if GMOs are used as part of her operation. Two years ago, when attending the Virginia Food and Beverage Expo, the buzz words were organic and natural.

Mr. Kordek mentioned that the weather has been cold as well. The cold weather has put a strain on the termite and pest control businesses. It is the biggest layoff that he has seen in 30 years, as companies did not want to carry the payroll through the cold months when there was not enough work. Mr. Kordek stated that now there is a bit of a hiring frenzy. He mentioned that he would like to see the Board consider an online registration for the registered tech exams. An online registration and online payment system would expedite the process. He stated that there is a training period that will be needed, but that this new process would be beneficial to the industry. He also mentioned that the good news with the weather is that homeowners and businesses should expect less pest activity due to the hard freeze. There will be an economic impact, but that is good news for consumers. Mr. Kordek also mentioned that those interested in pollination issues are attacking the pest control industry. He expects that there may be some big changes in how mosquitoes are controlled in the future as a result.

Ms. White reported that as of March 10, 2014, there were 22,349 (8,159 commercial; 6,194 private; and 7,996 registered technicians) certified applicators. There were 3,037 licensed pesticide businesses and 14,058 pesticide products registered. From July 1, 2013, through March 10, 2014, pesticide services conducted 1,200 inspections and 81 investigations. They also responded to 19 citizen assistance requests; reviewed and approved 256 pesticide safety education programs (recertification courses); participated and conducted 45 outreach and education events; and monitored 84 pesticide safety education programs (recertification courses).

Mr. Bain reported that the cattle business is still strong. He reiterated that this is not a good time to get into the business but that it is a good time to sell. Wheat looks slow and behind schedule. Farmers are concerned about a potential fertilizer price jump because of the recent conflict in Russia. He mentioned that the peanut business is mediocre like last year, but for whatever reason he saw a few new growers come back in the business that had not planted peanuts in 10 years. He also mentioned the Farm Bill meetings led by the National Cotton Council. He thanked the Board for asking him to attend the AFID project announcement in

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Crewe last week, and said that the project will be a big boost to the forestry industry. He also mentioned the Virginia Food and Beverage Expo and how impressed he was with it.

Mr. Marker mentioned that as in some of the other regions, small grains are behind. Orchards in his area are looking good, though there may be some peach damage from the cold weather. He also mentioned that farmers are getting low on hay and that last summer farmers thought they had plenty of hay, but now some hay reserves are close to being used up.

Mr. Mills mentioned similar problems in Southside Virginia. Small grains are poor and not doing well. The area is way behind in getting fertilizer down, and the window of opportunity is getting smaller. Hay is getting low as well and farmers are dipping into their hay reserves this spring. Tobacco will probably be at the 1998 production level this year and has come back really strong. The big push in his area is for organic tobacco, with farmers getting paid twice as much per pound for organic tobacco. There are many strings attached to producing organic tobacco, which is why he chose not to do so, but it can be lucrative. Cattle prices are high, but there is concern that the high prices will not last.

Mr. Kirby said that farmers forgot what small grains look like in a tough winter. The last five or six years have been so good that in some cases people grazed or mowed to keep their plants from getting so far ahead. Corn producers in his area are having problems with planting. He mentioned that there is much discussion about the Farm Bill as it relates to crop insurance and what this means for producers. There still is a lot of talk as well about where the price of corn will go. He tends to be optimistic despite what the literature is saying.

Mr. Johnson informed the Board that Virginia Tech has announced the new President to replace Dr. Charles Steger, who is retiring. Dr. Timothy Sands will begin as the new President of the University on June 1, 2014. He is currently the Executive VP for Academic Affairs and Provost for Purdue University. Mr. Johnson mentioned that the new Human and Agriculture Biosciences Building had its official grand opening on March 21, 2014. The building houses researchers from Biological Systems Engineering and Food Science and Technology, who will utilize the latest in technology and laboratory space that is available in the building. The research conducted in the building will focus on food safety issues, bio-processing and bio-fuels. The building is LEED Certified by the US Green Building Council for its building design and construction. Mr. Johnson provided that the Virginia Agriculture Experiment Station is in the process of screening the candidate for the Director of Tidewater Agriculture Research and Extension Center (AREC). Allen Harper, who has served as the director for the past six years will be retiring in August. There is also a search underway for two faculty positions in food safety and horticultural crops. Candidates will be visiting Virginia Tech in April and Mr. Johnson hopes to have these positions filled by August. Virginia Cooperative Extension (VCE) is close to completely filling all of the Extension Agent vacancies across the state. VCE will have about 240 extension agents statewide when the hiring process is complete. Finally, Mr. Johnson mentioned that VCE will celebrate its 100th Anniversary on May 8, 2014. This is the 100th anniversary of the signing of the Smith-Lever Act that established the national Cooperative Extension System. There are a variety of events scheduled and planned throughout 2014 to commemorate this historic event. Board members will probably hear more soon about events that may be planned in their areas. Mr. Johnson thanked VDACS for the invitation to attend the Virginia Food and Beverage Expo. He also informed the Board that a bus tour of selected AREC locations is being organized to showcase the activities at the ARECs for the Board in July.

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Mr. Sturgis said that it was cold. He stated that small grains are looking pretty peaked, but agreed that producers forgot what a regular year looks like. Potatoes are a bit behind but should be on track. He also stated that he thought the Virginia Food and Beverage Expo was excellent.

Dr. Miller reported that Virginia State University (VSU) is doing well in terms of impact around the Commonwealth. VSU worked with approximately 30,000 clients over the last 12 months, which is a significant number, and is looking to do much better this coming fiscal year. In addition, VSU increased the number of Virginia students interested in agriculture by 10 to 15 percent, and VSU is looking forward to doing more with students in agriculture and related areas. Staff plans to visit 15 to 20 elementary and high schools to promote the field and career tracks in agriculture this fiscal year.

ACTING COMMISSIONER'S REPORT

Acting Commissioner Adams delivered her report to the Board. During the presentation of this report, she briefed the Board on personnel changes, recent and future events, and other matters relating to the Virginia Department of Agriculture and Consumer Services (VDACS). A copy of the written report, on which her presentation was based, was included in the Board meeting folder.

2014 SESSION OF THE GENERAL ASSEMBLY – LEGISLATIVE REPORT

President Sturgis called again on Acting Commissioner Adams, who provided a brief overview of legislation tracked by VDACS during the 2014 Session of the General Assembly.

2014 SESSION OF THE GENERAL ASSEMBLY – BUDGET REPORT

President Sturgis called on Kendra Shifflet, VDACS Budget Director, who provided a brief overview of relevant budget issues related to the 2014 Session of the General Assembly and VDACS.

PROPOSED NOTICE OF INTENDED REGULATORY ACTION – 2 VAC 5-111 (RULES AND REGULATIONS PERTAINING TO PUBLIC AND PRIVATE ANIMAL SHELTERS)

President Sturgis called on Dr. Wilkes, State Veterinarian and Director, Division of Animal and Food Industry Services, who then introduced Dr. Daniel Kovich. Dr. Kovich presented a recommendation that the Board authorize the filing of a Notice of Intended Regulatory Action (NOIRA) concerning 2 VAC 5-111 (Rules and Regulations Pertaining to Public and Private Animal Shelters). As part of this presentation, Dr. Kovich provided an overview of the changes that occurred over the last 30 years with respect to how localities treat animal shelters, and mentioned the increased blurring of the lines between the roles played by a public animal “pound” (“public animal shelter” after July 1, 2014) and private animal shelters. Dr. Kovich mentioned that VDACS plans to use the existing Comprehensive Animal Care Working Group to address these changes and that the regulated community is expected to welcome these changes.

Following Dr. Kovich's presentation and an opportunity for Board questions and comments, Mr. Mills 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 2 VAC 5-111, Rules and Regulations Pertaining to Public and Private Animal Shelters. Mr. Marker seconded the motion and it was carried by a unanimous vote of the Board.

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PROPOSED FAST TRACK ACTION – 2 VAC 5-141 (HEALTH REQUIREMENTS GOVERNING THE ADMISSION OF AGRICULTURAL ANIMALS, COMPANION ANIMALS, AND OTHER ANIMALS OR BIRDS INTO VIRGINIA)

President Sturgis called on Dr. Wilkes, who introduced Dr. Charles Broaddus. Dr. Broaddus asked the Board to consider proposed fast-track action to amend 2 VAC 5-141 (Health Requirements Governing the Admission of Agricultural Animals, Companion Animals, and Other Animals or Birds Into Virginia).

Before the Board considered proposed fast-track action to amend 2 VAC 5-141 (Health Requirements Governing the Admission of Agricultural Animals, Companion Animals, and Other Animals or Birds Into Virginia), Mr. Mills, Mr. Bain and Ms. Potter each indicated that he or she will need to fill out a disclosure statement of financial impact form prior to voting. Each form stated that the Board member was a member of a business, profession, occupation or group affected by the transaction and stated the nature of the personal interest. Each declared that he or she was able, nevertheless, to vote fairly, objectively, and in the public interest. Each declaration was signed, dated and filed with the Commissioner of Agriculture and Consumer Services, who will retain and make these declarations available for a period of five years from the date of recording or receipt as required per § 2.2–3114 of the Code of Virginia.

Following Dr. Broaddus' presentation and an opportunity for Board questions and comments, Mr. Ellis moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-141, Health Requirements Governing the Admission of Agricultural Animals, Companion Animals, and Other Animals or Birds Into Virginia as presented by staff today, and that the Board authorize staff to take any and all steps necessary to have these regulations become final through fast-track regulatory action. Mr. Kirby seconded the motion and it was carried by a unanimous vote of the Board.

FINAL STAGE – 2 VAC 5-440 (RULES AND REGULATIONS FOR ENFORCEMENT OF THE VIRGINIA PEST LAW – COTTON BOLL WEEVIL QUARANTINE)

President Sturgis called on Andy Alvarez, Director, Division of Consumer Protection, who reviewed with the Board the steps taken to seek public comment on the proposed Rules and Regulations for Enforcement of the Virginia Pest Law – Cotton Boll Weevil Quarantine (2 VAC 5-440).

Before the Board considered the proposed final regulation for 2 VAC 5-440 (Rules and Regulations for enforcement of the Virginia Pest Law – Cotton Boll Weevil Quarantine), Mr. Bain and Ms. Barlow each indicated that he or she will need to fill out a disclosure statement of financial impact form prior to voting. Each form stated that the Board member was a member of a business, profession, occupation or group affected by the transaction and stated the nature of the personal interest. Each declared that he or she was able, nevertheless, to vote fairly, objectively, and in the public interest. Each declaration was signed, dated and filed with the Commissioner of Agriculture and Consumer Services, who will retain and make these declarations available for a period of five years from the date of recording or receipt as required per § 2.2–3114 of the Code of Virginia.

Following Mr. Alvarez's presentation and an opportunity for Board questions and comments, Mr. Marker moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-440, Rules and Regulations for Enforcement of the Virginia Pest Law – Cotton Boll Weevil Quarantine, as presented by staff today, and that the Board authorize staff to take any and all steps necessary

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for this regulation to become a final regulation of the Board. Mr. Mills seconded the motion and it was carried by a unanimous vote of the Board.

FINAL STAGE – REVISIONS TO 2 VAC 5-317 (REGULATIONS FOR ENFORCEMENT OF THE NOXIOUS WEED LAW)

President Sturgis called again on Andy Alvarez, Director, Division of Consumer Protection, to begin the staff presentation on 2 VAC 5-317 (Regulations for Enforcement of the Noxious Weed Law). Mr. Alvarez mentioned that at a previous meeting on December 5, 2013, the Board adopted the final regulation for 2 VAC 5-317 presented by staff that day and authorized staff to take any and all actions necessary for this regulation to become a final regulation of the Board.

Mr. Alvarez reported that staff carried out the Board's request, and the proposed regulation package was filed and then underwent a review by the Department of Planning and Budget, and the Office of the Secretary of Agriculture and Forestry. He explained that during this executive review, staff received direction that the proposed regulation needed to be revised so that the final regulation did not specifically list any member of the noxious weed advisory committee by name or by organization. Mr. Alvarez also mentioned that staff worked with the Secretariat of Agriculture and Forestry to redraft the final regulation, and recommended that the Board amend the regulation as shown in the meeting folders and as presented today.

Following Mr. Alvarez's presentation and an opportunity for Board questions and comments, Mr. Bain moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-317, Regulations for Enforcement of the Noxious Weed Law, in the amended version, as presented by staff today, and that the Board authorize staff to take any and all steps necessary for this regulation to become a final regulation of the Board. Ms. Potter seconded the motion and it was carried by a unanimous vote of the Board.

MILK TOAST

President Sturgis called on Acting Commissioner Adams to lead the Board in a "milk toast" to celebrate March 23 - 29, 2014, as Virginia Agriculture Week.

At 10:17 a.m., President Sturgis called for a short recess.

At 10:34 a.m., President Sturgis reconvened the meeting.

PRESENTATION ON THE FOOD SAFETY AND SECURITY PROGRAM

President Sturgis called on Ryan Davis, Program Manager, Office of Dairy and Foods, to deliver this presentation providing an overview of the VDACS Food Safety and Security Program.

PRESENTATION ON 2012 CENSUS OF AGRICULTURE DATA

President Sturgis called on Herman Ellison, Director, Virginia Field Office, U.S. Department of Agriculture – National Agricultural Statistics Service, to deliver this presentation covering the recent release of some of the data generated from the 2012 Census of Agriculture.

PRESENTATION ON THE GOVERNOR'S AGRICULTURE AND FORESTRY INDUSTRIES DEVELOPMENT (AFID) FUND

President Sturgis called on Stephen Versen, AFID Fund Coordinator, to deliver an update on the Governor's AFID fund.

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NEW BUSINESS

Ms. Potter mentioned that she met First Lady Dorothy McAuliffe at the Virginia Food and Beverage Expo yesterday and thought that it was great that the First Lady attended.

Mr. Ellis stated that he has been contacted by constituents in favor of the “Food Freedom Act” and that these constituents expressed concern that existing regulations stifle their activities. These constituents wanted him to raise the issue with the Board.

Ms. Barlow mentioned that she would like the Board to address the issue of recycling of bulk seed bags. She said that unlike plastic containers it was difficult to find anyone that would recycle these bags. She wondered if this is something that could be added to the pesticide container recycling program.

PLANS FOR FUTURE BOARD MEETINGS

President Sturgis reported that the next two Board meetings are scheduled for May 15, 2014, and December 11, 2014, in the State Capitol in Richmond. President Sturgis also announced that the summer Board meeting and tour will be hosted by Virginia Tech in Blacksburg in late July or early August. (The dates for this meeting and tour were later set for July 28-29, 2014.)

PUBLIC COMMENT PERIOD

No public comments were made.

There being no further business, the Board adjourned at approximately 11:30 a.m.

Respectfully submitted,

Steve Sturgis
Board President

Kevin Schmidt
Board Secretary