

FINAL MINUTES

Board of Agriculture and Consumer Services
Virginia State Capitol
Richmond, Virginia
Thursday, May 15, 2014

The meeting of the Board of Agriculture and Consumer Services (Board) convened at 9:00 a.m. on Thursday, May 15, 2014, in Senate Room 3 of the Virginia State Capitol 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
Dr. Mark A. McCann
John R. Marker
L. Kirk Wiles, III
Elizabeth L. White
Kevin J. Kordek
Dr. Keith T. Miller
Lonnie Johnson

DISTRICT

1st
2nd
3rd
4th
5th
6th
7th
9th
10th
11th
Pesticides – Commercial Agricultural
Pesticides – Commercial Structural
President, Virginia State University
Representing Dr. Charles W. Steger,
President, Virginia Tech

ABSENT

Vacant Seat 8th

STAFF PRESENT

Sandra J. Adams, Acting Commissioner
Kevin E. Schmidt, Board Secretary

APPROVAL OF MINUTES

Mr. Mills moved that the draft minutes of the meeting on March 27, 2014, be approved as distributed. Mr. Ellis seconded the motion, and it was passed by a unanimous vote.

ELECTION OF OFFICERS

President Sturgis turned the gavel over to Acting Commissioner Adams who opened the floor for nominations for Board President.

Mr. Bain nominated Mr. Sturgis for President and Mr. Mills seconded the nomination. There being no other nominations, Acting Commissioner Adams then called for a vote on the nominee and the Board elected Mr. Sturgis as President by a unanimous vote.

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Acting Commissioner Adams then returned the gavel to President Sturgis who opened the floor for nominations for Vice President. Mr. Kordeck nominated Mr. Mills for Vice President and Mr. Wiles seconded the motion. Mr. Bain moved that nominations be closed and Ms. Barlow seconded the motion. President Sturgis then called for a vote on the nominee and the Board elected Mr. Mills as Vice President by a unanimous vote.

President Sturgis then called for nominations for Secretary. Mr. Mills nominated Mr. Schmidt for Secretary and Ms. Potter seconded the motion. Mr. Bain moved that nominations be closed and Ms. Potter seconded the motion. President Sturgis then called for a vote on the nominee and the Board elected Mr. Schmidt as Secretary by a unanimous vote.

(All three office positions become effective July 1, 2014, and run through June 30, 2015.)

REPORT FROM BOARD MEMBERS

Mr. Ellis reported that the weather had been pretty consistent for everybody – chilly temperatures followed by rain and then a warm up followed by rain and chilly temperatures again. He noted that farmers in his area got a head start on everything. The corn was planted timely, and some of it has been replanted due to wet conditions. He mentioned that his area is two to three weeks behind on wheat and barley, but that one week of 90 degree weather the first week of June will help catch it up. He reported that 98 percent of his area does not use tillage anymore close to the Bay, and that has really helped with getting on and off cropland in a timely fashion. He stated that the farmers markets in his area have cranked up and seem to grow every year. Rockfish season came in this week and is expected to be big in his area. Mr. Ellis added that everyone is optimistic and is waiting to see what the summer months will bring.

Mr. Marker reported that in his area things are running late due to the cool weather and plenty of moisture. The small grains are looking better since the onset of warm weather. He added that 60-75 percent of the corn is planted and that, normally, all of it would have been planted by this time, but the ground temperature has been too cool. He stated that the cold weather damaged a lot of the young, early peaches, but the late season peaches should be good. He noted that plums were badly damaged in his area, but the apple crop looks like it will be very good. The apples are just through bloom and are getting ready to start chemically thinning. Mr. Marker also noted that the pastures look like they are improving now that the weather is getting warmer.

Mr. Mills reported that cattle prices are still strong, which is great for those in the cattle business. He added that about 90 percent of the tobacco crop is in the ground but there is a dire shortage of plants. This is probably one of the largest crops of tobacco produced in a number of years, but the infrastructure is not there to support it with the amount of plants that are needed. He added that poor germination from a lot of different seed varieties has been the cause of some of the wilts. He also stated that soybeans are just starting to go in the ground. Mr. Mills expressed concern that only about 5 percent of the hay has been cut in his area. Normally, they are in the latter part of cutting by now. The growers in his area who harvested hay saw a crop that is 50 percent less than what they traditionally have. He added that producers will have to look closely at hay as they go into the winter with their cattle numbers. Corn is pretty much in the ground except for the larger dairies in his area that plant throughout the summer. Mr. Mills also reported that the cereal leaf beetle, which had not been seen in his area for the last couple of years, has returned. Unfortunately, growers were not expecting it. There is a lot of spraying of wheat taking place. He concluded by stating that he does not know whether it is global warming or whether this is just the way things are going to be, but things are consistently inconsistent,

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and you can pretty much throw away the playbook and just react to things as they are presented to you.

Mr. Johnson reported that the Virginia Tech College of Agriculture will be hosting the summer meeting of the Board of Agriculture scheduled for Monday, July 28, 2014, at the Alphin-Stuart Livestock Arena on Virginia Tech's campus. He mentioned that commencement ceremonies will take place on Saturday, May 17, 2014. He added that the Dean reported in a Dean's Forum last week that college enrollment is about 2,900 undergraduate students, 275 in the two-year agriculture technology program, and about 500 graduate students. He noted that Dr. Said Mostaghimi reported research expenditures coming out of the College places the College of Agriculture seventh in the nation in research expenditures. Mr. Johnson informed the Board of the activities celebrating the 100th anniversary of Virginia Cooperative Extension: on May 7, 2014, a celebration was held at Virginia State University; on May 8, 2014, a celebration was held on the agriculture quad on campus at Virginia Tech with Presidents Steger and Miller in attendance; and on May 7-8, 2014, Mr. Johnson attended the national celebration in Washington, D.C., which included participation by U.S. Secretary of Agriculture Tom Vilsack and the Director of NIFA, Dr. Sonny Ramaswamy.

Dr. McCann reported that the last two weeks were a little drier than the rest of the spring. His area is not a big corn producing area, but most of what will be grown has been planted. The silage crops are in the ground. To follow up on the cattle prices, he added that his area has also enjoyed higher prices. He noted some of the cattlemen are reinvesting a little bit of this additional profit in other things that go along with cattle production. He stated that the prices have not deterred people who graze cattle in the summertime. They have been buying light weight calves for a large amount of money, and he hopes prices hold up for them. Dr. McCann stated that the hay production in his area is slow, and he is hoping this upcoming rain will change that. He noted that with the rough winter, the overall hay stock and carryover hay will be down. He explained that the hay produced last year was a poorer quality than normal, and they need a good hay year to get back to even.

Ms. Potter reported that it was nice to see some green grass, which made it possible to put the livestock out to graze and not have to continue feeding hay. She stated that last year this time they were overly saturated, but they are not overly saturated this year and could use a little bit of rain. She added that they just finished chopping rye, and their personal crop was pretty good. Overall for the area, however, the small grains did not fare too well this year. Some producers had barley that did not come up. Some growers have already planted corn, but there is still quite a bit of corn to be planted. As far as looking at the consumer end of the cattle pricing, she noted that beef prices have increased in the grocery stores and markets; however, people have not quit eating beef, but the trend has changed from eating the filet to getting a package of hamburgers. Ms. Potter stated that she feels the higher cattle prices are starting to affect consumers' pocketbooks. She noted that pork prices have followed cattle prices, and the report she received this week showed that poultry prices are going to go up on the retail and wholesale end of things. When consumers go to the grocery store, they will be paying more for what they want to consume. She stated that hopefully there will not be consumer resistance because of the higher beef, pork and chicken prices.

Mr. Kordek reported that the termite season got off to a pretty brisk start, but then a late freeze occurred that pretty much shut everything down. He stated that this will affect employment in the industry, because companies are not hiring as many people given that business has not been

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as brisk. He noted that the pest of most concern right now is the tick. Ticks have come in very early this year and are everywhere, which could result in an increase in Lyme disease. They have seen more calls for ticks so far this spring than they normally see by August. He noted that bed bugs are spreading, especially in travel sports such as baseball, soccer, etc. Mr. Kordek reported that the Virginia Pest Management Association is going to try to get together a task force to address the crawl space encapsulation issue that has been on the table for the last five or six years. Consumers are ending up without termite protection that they thought they had because companies will not warrant a structure for termite damage that has an encapsulated crawl space. Mr. Kordek stated that he will work with Mr. Alvarez's group in the Division of Consumer Protection to see if they can get some kind of consumer alert out to simply raise awareness that, if companies encapsulate their crawl space, they need to leave a four to six inch inspection portal at the top or they are going to end up finding that they do not have any termite protection.

Ms. White reported on the Virginia Pesticide Control Act grants issued by the agency. The agency announced the grant through a request for proposal process in October 2013 and set aside up to \$250,000 to fund proposals from qualified public and private entities or individuals (or joint ventures of the two). The funding for these grants comes from registration fees paid by pesticide registrants. The agency recently issued four grants totaling \$280,266. The 2014 grant recipients are: Dr. David Gerrard, *Chasing Away The Ham Mite*, \$80,000; Dr. Jayesh Samtani, *Determining the Efficacy and Economics of Soil Solarisation and Mustard Products for Soil-borne Pest Control in Virginia Annual Plasticulture Strawberry Production*, \$27,776; Dr. Dini Miller and Molly Stedfast, *Virginia Bed Bug and Urban Pest Guidance Partners*, \$138,731; and Dr. J. Christopher Bergh, *Monitoring the Seasonal Abundance and Host-Use Patterns of Brown Marmorated Stink Bug Nymphs at the Orchard/Woodland Interface*, \$33,759. The agency anticipates continuing to issue grants in subsequent years, as long as funds are available. Ms. White also provided a report on the Office of Pesticide Service's (OPS) activities as of April 30, 2014, which included a summary of program data such as the number of applicators certified, pesticide businesses licensed, and pesticide products registered. A copy of this report on OPS activities presented by Ms. White was included in the Board meeting folders.

Mr. Wiles reported that wineries recently experienced bud break and that fruit set has started to occur. He explained that this is a critical time for developing clusters on the vine, which determines how much fruit each vine will produce. No major vineyard damage occurred throughout the state during the recent frost season. The cold winter killed off some buds, delaying certain vines a year or two or resulting in the need to replant some vines. Mr. Wiles reported that he expects vineyard acreage to significantly increase in 2015 and 2016 with the establishment of new vineyards and bigger wineries producing more fruit. Mr. Wiles's winery, Paradise Springs, in northern Virginia, will be opening a full-service laboratory to service the wine industry in Virginia and the Mid-Atlantic area. Mr. Wiles stated that this type of development continues to define Virginia as a leader on the East Coast.

Ms. Barlow reported that the corn crop was planted late and was slow to emerge, but has grown significantly recently. She reported that cotton planting is underway on her farm. The rain and unusually high temperatures have been ideal for cotton planting, resulting in cotton that emerges in three to four days. Ms. Barlow reported that strawberry picking is in full swing in southeast Virginia, despite beginning about two weeks late and that vegetable production is off to a good start. Gail Moody-Milteer with the agency's Division of Marketing and Development led a group from the International Cotton Advisory Committee on a tour through southeast

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Virginia, including Ms. Barlow's farm. Ms. Barlow stated that she enjoyed speaking with individuals from 12 different countries about cotton production in their countries and telling them about what she does on her farm.

Mr. Bain reported that, due to the late start, many crops now need attention at the same time. Mr. Bain also reported that some growers abandoned their wheat crop, but that those who micro-fed their wheat crop now have good looking crops with the potential for a great yield. Most cotton and peanut planting has been 10 to 14 days behind, but with the warmer nights, germination should be good. Mr. Bain reported that 98 percent of the tobacco in his district has been planted. His district has recently experienced scattered rain showers.

Mr. Kirby reported that, in his district, corn planting is 100 percent complete and that soybeans and full season beans are in full swing. He reported that most planting has halted this week because of the potential for a big rain tonight. Growers do not want to have to replant any crops. His district has also seen the cereal leaf beetle on its wheat. Significant flooding in his area two weeks ago resulted in one grower losing 100 acres of corn and one vegetable grower losing 50 acres that had plastic down and plants planted.

Dr. Miller reported that Virginia State University (VSU) held its commencement exercise and graduated almost 100 agriculture majors. This degree includes programs that focus on agribusiness, aquaculture, and animal science. VSU celebrated the 100th anniversary of the Cooperative Extension Program last week. Both VSU and Virginia Tech hosted very good programs with participation from growers around the state. Dr. Miller reported that Virginia Cooperative Extension has grown over the last two years despite the state's economic situation. VSU intends to continue this expansion to benefit growers around the state. Dr. Miller stated that Virginia Cooperative Extension now has a good mixture of experienced and new staff and has programs in most areas of the state. Dr. Miller thanked Dr. Charles Steger of Virginia Tech, who is retiring, for his work with Virginia Tech's agriculture program and Cooperative Extension programs. Dr. Steger has been a tremendous leader, helping to maintain and, in some cases, gain the funding needed to advance agriculture.

Mr. Sturgis reported that crops are behind in his district, with snap beans that should have been planted on April 24 being planted today. Potato crops have begun to blossom. Those potato crops on higher land have fared better than those on lower land, where much seed rotted during the cold and wet weather. Mr. Sturgis reported that the strawberry crop is strong and the wheat crop is coming.

Following Mr. Sturgis's report, Mr. Ellis requested the opportunity to add to his report and stated that the opening of the ethanol plant in Hopewell has greatly helped the grain farmers in his area. The plant offered about 60 cents more per bushel of corn than the local grainery in its contracts for fall delivery. The grant that the plant received requires that it buy local grain. Additionally, other grain buyers have raised their prices to compete. Mr. Ellis recognized the work of Secretary Haymore, the previous administration, Governor McAuliffe, and the agency in helping Virginia's grain farmers.

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

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copy of the written report, on which her presentation was based, was included in the Board meeting folder.

PROPOSED EXEMPT ACTION – 2 VAC 5-490 (REGULATIONS GOVERNING GRADE “A” MILK)

President Sturgis called on Dr. Wilkes, State Veterinarian and Director, Division of Animal and Food Industry Services, who then introduced Ryan Davis, Program Manager, Office of Dairy and Foods. Mr. Davis briefed the Board on the need to enact a Grade “A” milk regulation that incorporates recent changes to the federal Pasteurized Milk Ordinance so that milk from Virginia can be shipped across state lines. Mr. Davis provided an overview of the proposed changes to 2 VAC 5-490 and recommended that the Board adopt the proposed regulation as presented by staff, and authorize staff to take steps to have this draft regulation filed as a proposed regulation for public review and comment. Mr. Davis also indicated that this regulation is exempt from the Administrative Process Act and has a special review process established for it by the Code of Virginia.

Following Mr. Davis’ presentation and an opportunity for Board questions and comments, Mr. Mills moved that the Board adopt 2 VAC 5-490, Regulations Governing Grade “A” Milk, as presented by staff today, and that the Board authorize staff to take any and all steps necessary to file this proposed exempt regulation for public comment. Mr. Ellis 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 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 March 27, 2014, 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 after submitting the revised proposed final regulation realized that there remained an exemption listed for a particular cultivar of Cogon Grass that needed to be removed. Staff was advised that since the proposed final regulation is currently being reviewed by the Office of the Governor the proper way to address this is to withdraw the proposed final stage and start that particular stage again with the revised language. Mr. Alvarez stated that with the Board’s approval, staff will withdraw the final regulation package and then resubmit the revised final regulation package as presented today.

Following Mr. Alvarez’s presentation and an opportunity for Board questions and comments, Mr. Mills moved that the Board withdraw the current final stage for 2 VAC 5-317, Regulations for Enforcement of the Noxious Weed Law; that the Board adopt the amended version of 2 VAC 5-317, as presented by staff today; and that the Board authorize staff to take any and all steps necessary for this revised 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.

PROPOSED APPOINTMENT OF VIRGINIA WINERY DISTRIBUTION COMPANY BOARD MEMBER

President Sturgis called on Acting Commissioner Adams who brought to the Board’s attention a letter that she received from Joe Gigliotti resigning from the Virginia Wine Distribution Company

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(VWDC) Board of Directors and an email from Tripp Perrin representing the Virginia Wine Wholesalers Association, Inc. (VWWA) recommending that Gary Archuleta, Executive Vice President of Republic National Distributing Company-Virginia, be appointed to the VWDC Board of Directors to fill Mr. Gigliotti's unexpired term as an owner or manager of a wine wholesaler licensee. Acting Commissioner Adams also referred to § 3.2-102 of the Code of Virginia, which authorizes the Board to make appointments to the VWDC.

Following Acting Commissioner Adams' presentation and an opportunity for Board questions and comments, Mr. Marker moved that the Board accept Mr. Gigliotti's resignation and appoint Mr. Archuleta to fill Mr. Gigliotti's unexpired term on the board of directors of the Virginia Winery Distribution Company as an owner or manager of a wine wholesaler licensee. Mr. Wiles seconded the motion and it was carried by a unanimous vote of the Board. (Mr. Archuleta's term will end on June 30, 2016.)

BOARD MEMBER DUTIES AND RESPONSIBILITIES IN THE ADJUDICATION OF COMPLIANCE CASES – JAMES FLAHERTY, OFFICE OF THE ATTORNEY GENERAL

President Sturgis called on Andy Alvarez, Director, Division of Consumer Protection, to introduce James Flaherty, Assistant Attorney General, who delivered this presentation.

POULTRY WORK PERFORMED BY VDACS – DR. DON HOPSON, OFFICE OF VETERINARY SERVICES

President Sturgis called on Dr. Richard Wilkes, State Veterinarian and Director, Division of Animal and Food Industry Services, who then introduced Dr. Charles Broaddus, Program Manager, Office of Veterinary Services, who introduced Dr. Don Hopson. Dr. Hopson delivered this presentation.

NEW BUSINESS

No new business was mentioned.

PLANS FOR FUTURE BOARD MEETINGS

President Sturgis reported that the summer Board meeting and tour will be hosted by Virginia Tech in Blacksburg, Virginia, July 28-29, 2014, with the Board meeting taking place the afternoon of July 28. The final Board meeting of the year will be held December 11, 2014, at the Virginia State Capitol in Richmond.

PUBLIC COMMENT PERIOD

No public comments were made.

There being no further business, the Board adjourned at approximately 10:30 a.m.

Respectfully submitted,

Steve Sturgis
Board President

Kevin Schmidt
Board Secretary