

FINAL MINUTES
BOARD OF AGRICULTURE AND CONSUMER SERVICES
Board Room, Second Floor, Washington Building
Richmond, Virginia
March 17, 2005

The meeting convened at 9:00 a.m. on Thursday, March 17, 2005, in the Second Floor Board Room, Washington Building, 1100 Bank Street, Richmond, Virginia. President Holland requested a moment of silence and then called the meeting to order. The Board Secretary called the roll:

PRESENT

Stephen Wolfe
L. Bruce Holland
Gatewood Stoneman
T. M. Hardison
Gregory J. Galligan
Mary Campbell
Warren H. McConnell
Eddie N. Moore, Jr.
Dr. Patricia Sobrero

DISTRICT

1st
2nd
3rd
4th
8th
10th
11th
President, Virginia State University
Representing Dr. Charles W. Steger,
President, Virginia Tech

ABSENT

Clarence D. Bryant, III
Andrea Lohr
Jennifer P. Nolen
Gary B. Brown

5th
6th
7th
9th

STAFF PRESENT

J. Carlton Courter, III, Commissioner
Donald G. Blankenship, Deputy Commissioner
Roy E. Seward, Board Secretary

APPROVAL OF MINUTES

The minutes of the December 9, 2004 meeting were approved as amended. Mr. Wolfe abstained from voting, noting that he was not present at the December meeting.

INTRODUCTION OF SECRETARY OF AGRICULTURE & FORESTRY

President Holland introduced the Secretary of Agriculture & Forestry, the Honorable Robert S. Bloxom, who addressed the Board.

REPORT FROM BOARD MEMBERS

Mr. Galligan voiced his concerns for the closing of consumer services offices in northern Virginia area.

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During his report Mr. Hardison asked Virginia Tech and VDACS to cooperate in developing a three-year plan that would identify exactly what is being done and what can be done about a replacement crop for peanuts. He noted that this plan could also address the need for a replacement crop for tobacco. He also asked for an update on recent legislative concerning weights and measures program funding.

In her comments, Ms. Stoneman stated that she looked forward to working with Secretary Bloxom and supporting him in his efforts to promote agriculture and forestry in Virginia. She talked about efforts to increase funding for coyote control and her county's need for help through this program to deal with a growing coyote problem. She also talked about successful efforts during the recent General Assembly to increase funding for Virginia Cooperative Extension positions.

Mr. McConnell talked about efforts in other states to find replacement crops and the success of farmers in the Dakotas to produce sunflowers. He noted the differences from state-to-state such as soil conditions that affect the introduction/production of new crops.

Mr. Wolfe reported on citizen concerns for the closing of consumer affairs offices in northern Virginia. He asked that staff provide an update on weights and measures issues. He noted that Delegate Albert Pollard will be retiring from the House of Delegates and that he had declined an offer to run as a candidate for Delegate Pollard's seat.

In her report Ms. Campbell echoed public concerns for the consumer affairs office closings in northern Virginia.

Dr. Sobrero, representing Virginia Tech President Charles W. Steger, thanked the Board members for their support for Virginia Tech's initiative for Extension funding. She also thanked Secretary Bloxom for his support for continuing this effort next year. She reported on plans for filling agriculture research and extension positions around the state and the continuing need to seek additional resources to address local needs. Dr. Sobrero reported on Virginia Tech's efforts to seek input on key issues from every community across the state.

Mr. Moore, in his update on Virginia State University programs and activities, reported that Dr. Lorenzo Lyons has retired as head of Extension and the School of Agriculture at VSU and that Dr. Clinton Turner has agreed to serve in that capacity while the University does a national search to fill that important position. He reported on Virginia State's participation in the USDA scholars program for selected college students who are committed to work in the agriculture field upon graduation. He advised the Board that Virginia Tech and Virginia State will be splitting \$100,000 in state funds for use in encouraging economic development in agriculture. He noted that new crop development is something the two universities can work on together.

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Mr. Holland reported that the Virginia Agriculture Summit was a good program but noted that only a small percentage of the participants were producers—the group the summit was geared to reach. He reported on his visit to Cuba in December as part of a trade delegation organized by VDACS. He stated that VDACS has helped make over \$40 million in sales to Cuba since 2002 and suggested that VDACS continue working diligently to increase exports to Cuba because it is our closest export market.

COMMISSIONER'S REPORT

The Commissioner's reported on the following matters:

- *Personnel Changes
- *Cuban Trade Situation
- *Canadian Ministerial Exemption
- *2005 Virginia Agriculture Summit
- *2005 Virginia Grown/Virginia's Finest Campaign
- *Sudden Oak Death
- *Soybean Rust
- *Giant Salvinia
- *Pesticide Disposal
- *BSE & Canadian Border Opening Issues
- *Animal Identification Program
- *Scrapie Prevention and Control Program
- *EPA Air Emissions Rule
- *VA Ag Month Activities
- *VA Public Service Week
- *New Publications

In response to comments from Board members in their reports about consumer affairs office closings, Commissioner Courter advised that the offices being closed were local offices funded and operated by local governments. He noted that VDACS can expect to see an increase in consumer demand for services now that these local offices in northern Virginia are closed.

In response to Mr. Hardison's request during his Board member report that VDACS work with Virginia Cooperative Extension to develop a three-year plan for addressing the need for replacement crops for peanuts and tobacco, Commissioner Courter advised the Board that VDACS, on an on-going basis, continues to seek opportunities for the marketing of crops, including new high-valued ones that could be produced by farmers in replace of peanuts and tobacco. He added that making specific recommendations to farmers about what crops would meet to their operational needs is both difficult and challenging.

In response to comments made during the Board reports about funding of the state weights and measures program, the Commissioner briefed the Board members on actions taken by the General Assembly and noted that Deputy Commissioner Don Blankenship would be covering this issue in more detail during his updates.

BRIEFING ON LITIGATION

President Holland advised the Board that William A. Diamond, Senior Assistant Attorney General, was present to discuss litigation and asked for a motion that the Board go into closed session to seek Mr. Diamond's legal advice.

Ms. Campbell made the following motion:

Mr. President, pursuant to Sections 2.2-3711 and 2.2-3712 of the Code of Virginia, I, Mary Campbell, hereby move that the Board of Agriculture and Consumer Services convene a closed meeting. The subject matter of the closed meeting is agenda item number 8, concerning litigation pertaining to regulations 2 VAC 5-501 (cooling, storing, sampling & transporting of milk) and 2 VAC 5-531 (milk for manufacturing purposes). The purpose of the closed meeting is to consult (pursuant to Section 2.2.3711(A) (7) of the Code) with legal counsel, Mr. William A. Diamond, to seek his legal advice concerning this litigation. Because their presence is necessary or will reasonably aid the Board in its consideration of this topic, the following staff to the agency (pursuant to authority contained in Section 2.2-3712 (F) of the Code of Virginia) should also participate in the closed meeting: Commissioner J. Carlton Courter III, Deputy Commissioner Donald G. Blankenship, Dr. Richard Wilkes and Roy Seward.

Ms. Stoneman seconded the motion, and the Board voted as follows on this motion:

AYES: 9

NAYES: 0

ABSENT DURING VOTING: All Board members attending the meeting participated in the voting.

ABSENT DURING MEETING: Gary B. Brown; Clarence D. Bryant, III; Andrea Lohr; and Jennifer P. Nolen.

[At this point the Board closed the meeting]

[The Board reopened its meeting.] In open meeting, the Board Secretary read the following "Certification of Closed Meeting":

Whereas, the Board of Agriculture and Consumer Services has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 (D) of the Code of Virginia requires a certification by the Board of Agriculture and Consumer Services that such closed meeting was conducted in conformity with Virginia law;

Now, therefore, be it resolved that the Board of Agriculture and Consumer Services hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act, and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were held, discussed or considered by the Board of Agriculture and Consumer Services.

The motion was made by Mr. Moore and seconded by Mr. Wolfe.

The Board Secretary then conducted a roll call vote of each Board member on the question of whether he or she would certify the statement read by the Board Secretary:

The Board voted as follows on the certification statement:

AYES: 9 NAYES: 0

Mr. Wolfe - "I do certify."
Mr. Holland - "I certify."
Ms. Stoneman - "I certify."
Mr. Hardison - "I certify."
Mr. Galligan - "I certify."
Ms. Campbell - "I certify."
Mr. McConnell - "I certify."
Dr. Sobrero - "I certify."
Mr. Moore - "I certify."

ABSENT DURING VOTING: All members attending the meeting participated in the voting.

ABSENT DURING MEETING: Gary B. Brown; Clarence D. Bryant, III; Andrea Lohr; Warren H. McConnell; and Jennifer P. Nolen.

President Holland asked the Board Secretary to read a motion, concerning the Board's response to the litigation relating to the two dairy regulations.

The Board Secretary read the following motion:

That the Board of Agriculture and Consumer Services join the Virginia Department of Agriculture and Consumer Services as defendants in the cases of Solem v. Seward concerning the regulations 2 VAC 5-501 and 2

VAC 5-531 and that William A. Diamond, Senior Assistant Attorney General, be asked to submit the Board's request to join in the litigation to the Albemarle Circuit Court on March 28, 2005, when these cases will be heard.

Mr. Moore made the motion and Ms. Stoneman seconded it. The Board then voted unanimously to pass the motion.

ADOPTION OF RECORDS OF REGULATION MAKING

The Board Secretary presented a folder of documents assembled by staff concerning the adoption of 2 VAC 5-501 (Cooling, Storing, Sampling and Transporting of Milk) and recommended that the Board adopt these documents as the record of regulation making.

After the Board Secretary read the motion, Mr. Wolfe moved **that the Board of Agriculture and Consumer Services adopt the record as presented for 2 VAC 5-501, Regulations Governing the Cooling, Storing, Sampling and Transporting of Milk.** Ms. Campbell seconded the motion and it was passed by a unanimous vote of the Board.

After the Board Secretary read the motion, Mr. Hardison moved **that the Board of Agriculture and Consumer Services adopt the record (with addendum) as presented for 2 VAC 5-531, Regulations Governing Milk for Manufacturing Purposes.** Ms. Stoneman seconded the motion and it was passed by a unanimous vote of the Board.

COMMODITY BOARD REPORTS

John H. Parker, Executive Director, Virginia Pork Industry Board, presented a report of program activities on behalf of his board. David Robishaw, Regional Marketing Representative, Division of Marketing, presented a report on the program activities of the Virginia State Apple Board.

LEGISLATIVE UPDATE

Deputy Commissioner Don Blankenship presented the Board with a review of actions by the General Assembly during the 2005 session concerning agriculture and consumer issues and VDACS operations. Mr. Blankenship recognized the efforts of Perida Giles, Rebecca Askew, Larry Redford, Joyce Knight, Roy Seward and other agency staff who took part in assisting the Deputy Commissioner and Commissioner in assessing, monitoring/tracking and responding to legislative proposals during the 2005 session. Commissioner Courter also thanked the agency staff in the divisions and offices for their fine work.

BUDGET UPDATE

Deputy Commissioner Blankenship reviewed with the Board budgetary actions taken during the recent session concerning VDACS programs and pass-through funding.

REPORT FROM DIVISION OF CONSUMER PROTECTION

Director of Consumer Protection Andy Alvarez briefed the Board on civil penalties assessed by VDACS for violations of the Weights & Measures Law. He also commented on the closing of local consumer affairs offices by jurisdictions in northern Virginia and advised the Board that his division was keeping a close eye on the impact of these closings.

PLANS FOR FUTURE BOARD MEETINGS

Mr. Seward reported on plans for a Board meeting and tour on the Eastern Shore during July 14-15, 2005. He noted that the Board would meet from 2 to 5 p.m. at the Painter Experiment Station on Thursday, July 14. He added that, following the meeting, Board members, spouses, guests and staff will be treated to a seafood/chicken feast at the Experiment Station. He advised that the next day—July 15---the Board would tour different agricultural enterprises from approximately 8 a.m. to 4 p.m. He reported that Butch Nottingham of the Division of Marketing is helping with local arrangements for the July meeting and tour.

Mr. Seward asked the Board to reserve the following dates for Board meetings in Richmond:

July 14 – 15, 2005 - Eastern Shore
September 23, 2005
December 8, 2005

PUBLIC COMMENT PERIOD

Christine Solem of Charlottesville commented on legislation introduced during the 2005 session of the General Assembly relating to on-farm sales.

ADJOURNMENT

The meeting adjourned at 12:40 p.m.

Respectfully submitted,

L. Bruce Holland, President

Roy E. Seward, Board Secretary