

**DRAFT MINUTES**

Tuesday, July 20, 2021

The meeting of the Board of Agriculture and Consumer Services (Board) convened at approximately 9:00 a.m. on Tuesday, July 20, 2021, at Hardywood Park Craft Brewery - West Creek in Richmond. President Barlow called the meeting to order.

**ROLL CALL**

The Board Secretary called the roll:

**PRESENT**

O. Bryan Taliaferro, Jr.  
Donald Horsley  
Clifton A. Slade  
Shelley Barlow  
Cecil Shell  
Margaret Ann Smith  
L. Wayne Kirby  
James S. Huffard, III  
Richard Sellers  
Neil Houff  
Charles Church  
Lonnie Johnson  
  
Dr. M. Ray McKinnie

**CONGRESSIONAL DISTRICT**

1<sup>st</sup>  
2<sup>nd</sup>  
3<sup>rd</sup>  
4<sup>th</sup>  
5<sup>th</sup>  
6<sup>th</sup>  
7<sup>th</sup>  
9<sup>th</sup>  
11<sup>th</sup>  
Pesticides – Commercial Agricultural  
Pesticides – Commercial Structural  
Representing Dr. Timothy D. Sands, President,  
Virginia Tech  
Representing Dr. Makola Abdullah, President,  
Virginia State University

**ABSENT**

John R. Marker 10<sup>th</sup>  
Kay Johnson Smith 8<sup>th</sup>

**STAFF PRESENT**

Bradley Copenhaver, Commissioner, Virginia Department of Agriculture and Consumer Services  
Kevin Schmidt, Secretary, Board of Agriculture and Consumer Services  
Katherine Coates, Administrative Assistant, Virginia Department of Agriculture and Consumer Services

**APPROVAL OF MINUTES**

Mr. Sellers moved that the draft minutes of the meeting on May 20, 2021, be approved as distributed. Mr. Huffard seconded the motion. The motion was approved.

**REPORT FROM BOARD MEMBERS**

**Neil Houff**

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Mr. Houff reported that it has been hot and dry in the Shenandoah Valley. He gave the Board an update on fertilizer pricing and concluded his report by discussing some of the challenges in the pesticide and crop protection business.

### **Charles Church**

Mr. Church reported that the Virginia Pest Management Association (VPMA) provided recertification training to 278 licensed applicators this spring during three virtual recertification webinars. In cooperation with the Virginia Department of Agriculture and Consumer Services (VDACS) Office of Pesticide Services (OPS), VPMA provided in person testing to 230 individuals. With the end of Governor Northam's state of emergency due to COVID-19 on June 30, the temporary regulations for registered technicians ends on July 30. He concluded his report by recognizing VDACS OPS investigator Robert Christian for his excellent service.

### **O. Bryan Taliaferro**

Mr. Taliaferro reported on the status of the corn and soybean crop in his district. He reported that fertilizer, fuel, and pesticide prices are up. He stated that solar farms are cropping up in the first district and there are some community concerns about them.

### **Don Horsley**

Mr. Horsley provided an update on the spring weather in his district and reported on the progress of the corn, soybean, and wheat crops. He stated that the crops are better than normal and producers are optimistic for a prosperous year.

### **Clifton Slade**

Mr. Slade reported on crops in the southeast, stating that they all have excellent potential. He discussed his personal experiences in hemp production. He reported on the sales for the certified organic vegetable market. He reported that deer have still been a problem but he has received excellent service from the Virginia Department of Gaming and Inland Fishery this year.

### **Cecil Shell**

Mr. Shell began his report by stating that there has also been some controversy about solar farms going up in southside. He reported on the activities of the hemp growers in his area, the hay crop, and the vegetable crop. The vegetable crop appears to have a good market. He concluded his report with the status of the tobacco and timber markets.

### **Margaret Ann Smith**

Ms. Smith reported that, as Mr. Houff reported, the weather has been hot and dry in her district and rain has been spotty. She provided an update on the hay crop and livestock markets. She stated that the markets have been steady, with few exceptions. There is concern about grain prices. In the Shenandoah Valley, they are also seeing solar farms popping up as well as handwritten letters from landholding companies looking to buy land.

### **L. Wayne Kirby**

Mr. Kirby congratulated Commissioner Copenhaver on his appointment to commissioner. Mr. Kirby reported that his term has expired and this will be his last meeting. He stated that 2021 looks to be a good year for Virginia agriculture and wished Board members the best.

### **James Huffard**

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Mr. Huffard reported the weather has been similar to what others have reported. The crops in his district are doing well. He reported that Duchess Dairy is selling well, they have maxed out their labor force, and are hiring new people. He also reported that Duchess Dairy will start selling cheese curds in the next month. He reported that his area is also seeing more solar farms.

### **Richard Sellers**

Mr. Sellers reported that farmer's market are in full swing in Northern Virginia. They are having one of their best tomato crops. He shared with the Board that Fairfax County's agritourism ordinance was adopted at a meeting last month. He offered to send it to the Board members if they want to send it to their own county supervisors.

### **M. Ray McKinnie**

Dr. McKinnie reported that Virginia State University (VSU) is working on policy and procedures to prepare for a full return to campus in the fall. The College of Agriculture is doing a phased in approach to returning to campus. He reported that the scholarship program he reported on at the last meeting is giving out 25 full scholarships and more than 15 partial scholarships. He reported that the college is nearing the launch of their mobile processing facility. He provided dates for the college's upcoming events in the fall and concluded his report by stating that he is currently looking to fill the position of department chair for the College of Agriculture.

### **Lonnie Johnson**

Mr. Johnson reported that Virginia Tech is also looking forward to a full return on campus as well. Virginia Tech will require that all students be vaccinated and provide proof of vaccination. The university is also updating its telework policy. Since the last meeting, 12 extension agent positions have been filled and 10 more are in progress. He reported that yesterday was the official launch of the Fightin' Hokie lager, which was a partnership between Virginia Tech and Hardywood Park Craft Brewery.

### **Shelley Butler Barlow**

President Barlow officially welcomed Commissioner Copenhaver to the Board meeting. She reported that it was a tough May but crops in southeast are looking lush and green and they are optimistic for a good fall. She reported her farm will be growing peanuts for the first time. She attended the Fighting Hokie lager launch event the night before and stated it was a great event. She concluded her report by discussing the ramping up of solar farms. She let the Board know that there are several conversations happening around the state about solar farming.

## **COMMISSIONER'S REPORT**

Commissioner Copenhaver delivered his report to the Board. During the presentation of this report, he briefed the Board on personnel changes, recent events, and other matters relating to VDACS. A copy of the written report on which his presentation was based was included in the Board meeting agenda and materials.

## **PROPOSED STAGE – 2 VAC 5-105 REGULATIONS FOR THE INSPECTION OF PET SHOPS SELLING DOGS OR CATS**

President Barlow called on Dr. Charles Broaddus, State Veterinarian and Director, Division of Animal and Food Industry Services. Dr. Broaddus introduced Dr.Carolynn Bissett, Program

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Manager, Office of Veterinary Services, who briefed the Board on the proposed action to promulgate 2 VAC 5-105.

Following Dr. Bissett's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-105, Regulations for the Inspection of Pet Shops Selling Dogs or Cats, as presented by staff and that the Board authorize staff to take any and all steps necessary to file this proposed regulation for public comment.

Mr. Shell seconded the motion. The Board voted unanimously to approve the motion.

**PROPOSED STAGE – 2 VAC 5-405 REGULATIONS FOR THE APPLICATION OF FERTILIZER TO NONAGRICULTURAL LANDS**

President Barlow called on David Gianino, Program Manager, Office of Plant Industry Services. Mr. Gianino briefed the Board on the proposed action to amend 2 VAC 5-405 and responded to Board member questions.

Following Mr. Gianino's briefing, Mr. Shell moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-405, Regulations for the Application of Fertilizer to Nonagricultural Lands, as presented by staff and that the Board authorize staff to take any and all steps necessary to file this proposed regulation for public comment

Mr. Huffard seconded the motion. The Board voted unanimously to approve the motion.

**FAST-TRACK ACTION TO AMEND 2 VAC 5-675 REGULATIONS GOVERNING PESTICIDE FEES CHARGED BY THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES AND 2 VAC 5-685 REGULATIONS GOVERNING PESTICIDE APPLICATOR CERTIFICATION UNDER AUTHORITY OF VIRGINIA PESTICIDE CONTROL ACT**

President Barlow called on Larry Nichols, Director, Division of Consumer Protection. Mr. Nichols briefed the Board on the proposed fast-track regulatory action for 2 VAC 5-675 and 2 VAC 5-685.

Following Mr. Nichols' presentation, Mr. Houff moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-675, Regulations Governing Pesticide Fees Charged by the Department of Agriculture and Consumer Services, and 2 VAC 5-685, Regulations Governing Pesticide Applicator Certification under Authority of Virginia Pesticide Control Act, as presented by staff and that the Board authorize staff to take any and all steps necessary to amend these regulations through a fast-track regulatory action.

Mr. Horsley seconded the motion. The Board voted unanimously to approve the motion.

Following that motion, Mr. Kirby moved that the Board of Agriculture and Consumer Services request that the Department of Agriculture and Consumer Services establish a stakeholder committee two years after the effective date of the proposed fee revisions to 2 VAC 5-675 to evaluate the Pesticide Control Fund budget and the impact of fee changes and to provide feedback to the Board regarding the need to increase or decrease pesticide fees assessed pursuant to this regulation.

Mr. Church seconded the motion. The Board voted unanimously to approve the motion.

**RESPONSE TO SACKS PETITION FOR RULEMAKING PERTAINING TO HOME SERVICE CONTRACT PROVIDERS PURSUANT TO VA. CODE § 59.1-434.4**

President Barlow called on Secretary Schmidt. Secretary Schmidt presented the Board with a brief overview of the requirements for an agency's response to a citizen's petition for rulemaking.

Following his presentation, President Barlow called on Michael Menefee, Program Manager, Office of Charitable and Regulatory Programs. Mr. Menefee gave an overview of home service contracts and presented the Board with the petition for rulemaking from David Sacks requesting that the Board initiate rulemaking to promulgate regulations pertaining to home service contract providers pursuant to Va. Code § 59.1-434.4

President Barlow then called on David Sacks, a resident of Henrico County, who spoke to the Board about his concerns regarding home service contract providers. After Mr. Sacks's comments, Mr. Menefee recommended that the Board deny the petition given the Board's lack of clear statutory authority to promulgate the regulations sought by Mr. Sacks.

Following Mr. Menefee's recommendation, Mr. Sellers moved that, after consideration of a petition for rulemaking presented by David Sacks to promulgate regulations pursuant to Va. Code § 59.1-434.4 governing the issuance and provisions of home service contracts to protect the Virginia consumers who purchase these contracts as well as public comments received concerning the petition and staff recommendations, the Board deny this petition and authorize staff to take any and all steps necessary to communicate the Board's decision regarding this petition.

Mr. Taliaferro seconded the motion. The Board voted unanimously to approve the motion.

**PROPOSED APPOINTMENT OF VIRGINIA WINERY DISTRIBUTION COMPANY BOARD MEMBER**

President Barlow called on Commissioner Copenhaver. Commissioner Copenhaver informed the Board that the term of Virginia Winery Distribution Company board member, Stan Joynes, Chief Executive Officer and owner of Valley Roads Vineyards, LLC, expired June 30, 2021. Commissioner Copenhaver also reminded the Board that Mr. Joynes was appointed to fill the unexpired term through June 30, 2021, at the Board's meeting on May 20, 2021.

Commissioner Copenhaver then presented the Board with the original endorsement in May from the Virginia Wineries Association recommending that Mr. Joynes be appointed to the VWDC board of directors.

Mr. Sellers moved that the Board of Agriculture and Consumer Services reappoint Stan Joynes, Chief Executive Officer and owner of Valley Roads Vineyards, LLC, to the board of directors of the Virginia Winery Distribution Company in the position of an owner or manager of a winery or

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farm winery licensee that is not served by a wholesaler when the owner or manager is appointed to the board for a term from July 1, 2021, through June 30, 2023

Ms. Margaret Ann Smith seconded the motion. The Board voted unanimously to approve the motion.

**OVERVIEW OF OPTIONS FOR ELECTRONIC MEETINGS**

President Barlow called on Secretary Schmidt to present the Board with a brief overview of the three available options for electronic meetings in the future. Secretary Schmidt will provide detailed information regarding these options and a draft electronic meeting policy to the Board for its consideration at the December 10 Board meeting.

**NEW BUSINESS**

There was no new business

**FUTURE BOARD MEETINGS**

President Barlow announced that the next meeting will be Friday, December 10, 2021, in Richmond. Secretary Schmidt also announced that VDACS will hold an orientation session for any new Board members that have not yet attended an orientation. (The most recent orientation session was held in December 2016.)

**PUBLIC COMMENT PERIOD**

There was no public comment.

**ADJOURNMENT**

There being no further business, the Board adjourned at approximately 12:06 p.m.

Respectfully submitted,

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Shelley Barlow  
Board President

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Kevin Schmidt  
Board Secretary