

FINAL MINUTES

Board of Agriculture and Consumer Services
Virginia State Capitol
Richmond, Virginia
Thursday, December 5, 2013

The meeting convened at 9:00 a.m. on Thursday, December 5, 2013, 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. Jewel E. Hairston

Dr. Alan L. Grant

DISTRICT

1st
2nd
3rd
4th
5th
6th
7th
9th
10th
11th

Pesticides – Commercial Agricultural
Pesticides – Commercial Structural
Representing Dr. Keith T. Miller, President,
Virginia State University
Representing Dr. Charles W. Steger, President,
Virginia Tech

ABSENT

Vacant Position

8th

STAFF PRESENT

Matthew J. Lohr, Commissioner
Sandra J. Adams, Deputy Commissioner
Kevin E. Schmidt, Board Secretary

APPROVAL OF MINUTES

Mr. Mills moved that the draft minutes of the July 29, 2013, meeting be approved as distributed. Mrs. Potter seconded the motion and it was passed by a unanimous vote.

REPORT FROM BOARD MEMBERS

Mr. Ellis reported that his district had average or above average crop yields this year. He noted that corn prices dropped this fall, and that grain farmers are worrying about this. He stated that this is, however, making the livestock farmers more at ease.

Mrs. Barlow reported that her district had a challenging year, with lots of rain in the summer. The district did have excellent yields, with the cotton harvest the best it has been in years, an

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outstanding peanut harvest, and above average early beans. She stated that overall it has been a good year, but there are concerns about next year's prices.

Mr. Bain reported that his district had mixed yields. He noted a good corn crop, and that the peanut crop varied depending on the rain. He stated that soybean growers had excellent yields, but that double crop beans were a disaster and there will be a lot of claims for crop insurance. He also noted concerns about prices, and that farmers will be watching prices this year.

Mr. Mills reported that his district had a good summer and one of the best corn crops. He noted that early beans were good, but the frost defoliated much of the late beans. He expressed concern about wheat that still is in the ground, and that given the dry August he did not know if it would germinate or not. Cattle prices in the district remain strong, and he is hearing from some farmers that grain prices are going down. Tobacco production is the best quality that the district had in several years. He noted that there is strong demand for tobacco in Southside and good opportunities for contracting with companies. Overall the district has had a good and challenging year.

Mrs. Potter thanked the board for its attendance at the July board meeting in Lexington. Producers in her area noted that the corn that was harvested for grain was averaging between 165 to 200 bushels per acre, and that corn for silage was averaging 15 to 21 tons per acre. The summer was wet and rainy, but it has dried out now. She reported that livestock prices, especially cattle prices, are high in the area.

Mr. Kirby noted that in his district yields were across the board. It was expected that the rain would produce bumper crops, but this did not materialize in some places given the overcast weather. Overall, though, yields were good. He also noted that grain producers were participating today in a public comment period that is taking place in Washington, D.C., on the renewable fuel standards. He stated that the drop in corn used for ethanol is a concern to grain producers.

Dr. McCann reported that in his district it was a good year for growing, but not as good a year for harvesting. He stated that it was a good year for corn for silage, and this will be needed this winter given the poor hay quality some producers had. He also did state that cattle prices still are high.

Mr. Marker reported that grain farmers in his district also had a good crop year. He noted that the corn and early beans were excellent, but that the late beans were a disappointment. He also stated the district produced a lot of hay, but it was not of the greatest quality. He stated that the fruit crop was excellent both in terms of yield and of quality. He also noted that land in pasture was excellent as well.

Mr. Wiles reported that his district has been pretty wet, but that, in general, crops are okay. He noted that grape production was down by 15-20 percent, but these grapes should be high quality. He added that he would take high quality and low quantity grapes any day over higher yields of lower quality grapes.

Ms. White briefed the board concerning Office of Pesticide Services activities during July 1, 2013 through November 15, 2013, and provided a summary of program data such as the number of applicators certified, pesticide businesses licensed, and pesticide products

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registered. She also provided an update on the number of inspections that VDACS had conducted during this timeframe. In addition, she reported on the amount of canceled, banned or unwanted agricultural and commercial pesticides that were collected and that will be subsequently destroyed through the Pesticide Disposal Program during this timeframe; and the amount of plastic recycled through the Plastic Pesticide Container Recycling Program during this time frame.

Mr. Kordeck reported on a recent Inside Edition report on fraudulent termite inspections in Dallas, Texas, and contrasted that to the proactive training of inspectors in Virginia by the Virginia Pest Management Association (VPMA). He presented that Virginia had an active termite season that has helped to create and preserve jobs in the Commonwealth. He also presented that VPMA, in cooperation with Dr. Dini Miller, will be making application to VDACS for grant funding for an Advanced Post Construction Termite Treatment workshop in keeping with the mission of the Pesticide Control Fund. Finally, he noted that the predicted infestations of two new pests, the Brown Marmonated Stink Bug and the Kudzu Bug, never materialized.

Dr. Hairston, who represented Virginia State University, reported that President Miller has grave concerns about the recent incident that occurred on VSU's campus. She reported that President Miller has a team looking into the issue pertaining to the football team, and is establishing a task force to determine how to ensure a safe environment on campus. Dr. Hairston noted that enrollment for the College of Agriculture is over 450 students this year, compared with 250 during the 2009-2010 academic year. She commented that President Miller also is interested in establishing a bachelors degree in veterinary technology and is working with Dr. Richard Wilkes from VDACS on this. She also announced that VSU has hired Dr. Dahlia O'Brien as the new Extension Specialist in Small Ruminants. Dr. O'Brien previously worked at Delaware State University and has a significant amount of experience in the area. VSU also was asked, along with Dean Grant from Virginia Tech, to address the issue of food deserts in Virginia. Dr. Hairston noted that the plan almost is complete and will be presented during the 2014 Session of the General Assembly. Finally, she announced that VSU is recruiting for two new positions: an Associate Administrator for Extension and a Predatory Wildlife Manager.

Dr. Grant, who represented Virginia Tech, reported that enrollment is strong at the College of Agriculture and Life Sciences. He also mentioned that there would be 100 undergraduate and 40 graduates receiving degrees in December. He stated that Extension positions are being filled, and that the number of Extension agents continues to increase. He noted that there are 223 Extension agents currently on the payroll, and another 10 to 12 would be in place by the end of December. He also provided that Virginia Tech continues to work on relocating the Dairy Complex Research and Education Center.

President Sturgis reported that in his district grain crop yields were good on some crops and down on others. He stated that the corn crop this year is better than last year, and that vegetables had good yields and great markets. He added that green beans were good as well, as were fall tomatoes. Finally, he noted that overall things are looking up.

COMMISSIONER'S REPORT

Commissioner Lohr delivered his last report as Commissioner to the board. During the presentation of this report, he 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 his presentation was based, was

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included in the board meeting folder. Commissioner Lohr also introduced members of his family, who were in attendance in the audience.

At the completion of the Commissioner's report, President Sturgis presented a plaque to Commissioner Lohr, thanking him for his almost four years of service to VDACS and the Board of Agriculture and Consumer Services.

POUND CIVIL PENALTIES CONSENT AGREEMENTS

President Sturgis called on Dr. Richard Wilkes, State Veterinarian and Director, Division of Animal and Food Industry Services. Dr. Wilkes then introduced Dr. Daniel Kovich, who explained the Virginia Animal Pound and Shelter Civil Penalty Matrix. Dr. Kovich also presented resolutions from three critical violations of the Animal Care Laws and pursuant regulations. (Board members received a copy of the matrix and each of the consent agreements prior to the December 5 meeting, and a copy was included in each board meeting folder.) At the completion of the presentation, Dr. Kovich asked the board to ratify the finding of the State Veterinarian for each of the following cases:

- County of Allegheny, City of Covington, and the Allegheny Humane Society
- County of Lunenburg
- City of Portsmouth and the Portsmouth Humane Society

Following Dr. Kovich's presentation, President Sturgis asked any board member that needed to do so to fill out and read into the records a Declaration of Personal Interest. No such declarations were made by board members. President Sturgis moved that the Board of Agriculture and Consumer Services approve the proposed consent agreement staff presented today concerning the handling of civil penalty assessments for violations of the Comprehensive Animal Care Laws and regulations regarding the maintenance of animal pound facilities by the County of Allegheny, the City of Covington, and the Allegheny Humane Society. Mr. Mills seconded the motion and it was passed by a unanimous vote of the board. President Sturgis also moved that the Board of Agriculture and Consumer Services approve the proposed consent agreement staff presented today concerning the handling of civil penalty assessments for violations of the Comprehensive Animal Care Laws and regulations regarding the maintenance of animal pound facilities by the County of Lunenburg. Mr. Ellis seconded the motion and it was passed unanimously by the board. Finally, President Sturgis moved that the Board of Agriculture and Consumer Services approve the proposed consent agreement staff presented today concerning the handling of civil penalty assessments for violations of the Comprehensive Animal Care Laws and regulations regarding the maintenance of animal pound facilities by the City of Portsmouth and the Portsmouth Humane Society. Mrs. Barlow seconded the motion and it was passed unanimously by the board.

PROPOSED STAGE – 2 VAC 5-61 (RULES AND REGULATIONS GOVERNING LIVESTOCK DEALERS AND MARKETING FACILITIES FOR THE PURPOSE OF CONTROLLING AND ERADICATING INFECTIOUS AND CONTAGIOUS DISEASES OF LIVESTOCK) AND THE PROPOSED REPEAL OF 2 VAC 5-60 (RULES AND REGULATIONS GOVERNING THE OPERATION OF LIVESTOCK MARKETS) AND 2 VAC 5-120 (RULES AND REGULATIONS GOVERNING THE RECORDKEEPING BY VIRGINIA CATTLE DEALERS FOR THE CONTROL OR ERADICATION OF BRUCELLOSIS OF CATTLE)

President Sturgis called on Dr. Wilkes, who introduced Dr. Charles Broaddus. Dr. Broaddus presented the draft proposed 2 VAC 5-61, which included the repeal of 2 VAC 5-60 and 2 VAC 5-120, for the board's adoption as the proposed text of the regulation and for the board's

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authorization to file the proposed regulation for public comment. (Board members received a copy of the proposed regulation prior to the December 5 meeting, and a copy was included in each board meeting folder.)

Following Dr. Broaddus' presentation, President Sturgis moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-61, Rules and Regulations Governing Livestock Dealers and Marketing Facilities for the Purpose of Controlling and Eradicating Infectious and Contagious Diseases of Livestock, which includes the proposed repeal of 2 VAC 5-60, Rules and Regulations Governing the Operation of Livestock Markets, and 2 VAC 5-120, Rules and Regulations Governing the Recordkeeping by Virginia Cattle Dealers for the Control or Eradication of Brucellosis of Cattle; and that the board authorize staff to take any and all steps necessary to file the proposed regulation for public comment. Dr. McCann seconded the motion and it was passed unanimously by the board.

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

President Sturgis called on Andy Alvarez, Director of the Division of Consumer Protection, who introduced Erin Williams. Mrs. Williams reviewed with the board the steps taken to seek public comment on the proposed Regulation for Enforcement of the Noxious Weed Law, 2 VAC 5-317. A public hearing on the proposal was held by the board in conjunction with the July 29 board meeting. (Board members received a copy of the proposed regulation and public hearing minutes prior to the December 5 meeting, and copies of both were included in each board meeting folder.) Mrs. Williams also presented amendments to the proposed regulation regarding the composition and role of the Noxious Weeds Advisory Committee for adoption as a final regulation. Following Mrs. Williams presentation, President Sturgis moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-317, Regulations for Enforcement of the Noxious Weed Law, 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. Mr. Mills seconded the motion, and it was passed unanimously by the board

PROPOSED STAGE - 2 VAC 5-610 (RULES GOVERNING THE SOLICITATION OF CONTRIBUTIONS)

President Sturgis again called on Andy Alvarez, who reintroduced Erin Williams. Mrs. Williams presented the draft proposed 2 VAC 5-610 for the board's adoption as the proposed text of the regulation, and requested the board's authorization to file the proposed regulation for public comment. (Board members received a copy of the proposed regulation prior to the December 5 meeting, and copies of both were included in each board meeting folder.)

Following Mrs. Williams' presentation and questions from the board, President Sturgis moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-610, Rules Governing the Solicitation of Contributions, and that the board authorize staff to take any and all steps necessary to file the proposed regulation for public comment. Mr. Mills seconded the motion, and it was passed unanimously by the board.

BRIEFING ON ANIMAL DISEASE TRACEABILITY

President Sturgis called on Dr. Richard Wilkes, who briefed the board on the current status of animal disease traceability efforts in Virginia.

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GOVERNOR MCDONNELL VISIT TO THE BOARD OF AGRICULTURE AND CONSUMER SERVICES

At 10:30 a.m., President Sturgis stopped Dr. Wilkes' presentation, and announced the arrival of Governor Robert F. McDonnell. President Sturgis welcomed Governor McDonnell, and thanked the Governor and Secretary of Agriculture and Forestry Todd P. Haymore for their efforts to support agriculture during the past four years. Governor McDonnell addressed the board, and thanked the board, Secretary Haymore and Commissioner Lohr for all of their efforts as well during the past four years.

At 10:46 a.m., Dr. Wilkes returned to the podium to complete his presentation.

At 10:50 a.m., President Sturgis called for a short recess.

At 11:05 a.m., President Sturgis reconvened the meeting.

PRESENTATION ON PESTICIDE E-FORMS

President Sturgis called on Andy Alvarez, who introduced Jeff Rogers, Environmental Program Planner. Mr. Rogers presented an update on the pesticide e-forms currently being developed by VDACS.

PRESENTATION ON PESTICIDE CONTROL FUND

President Sturgis called on Andy Alvarez, who updated the board on the status of the Pesticide Control Funds administered by VDACS.

NEW BUSINESS

President Sturgis asked board members to think about holding a board orientation in conjunction with either the March 2014 or May 2014 board meeting. Secretary Schmidt will follow up with board members on the orientation date and location.

PLANS FOR FUTURE BOARD MEETINGS

President Sturgis reported that the first two meetings for 2014 are scheduled for March 27 and May 15 in Richmond; and that the final meeting for 2014 tentatively is scheduled for December 4 in Richmond. President Sturgis asked board members to look at the December 4, 2014, date and let staff know if members have any conflicts. President Sturgis also asked for any volunteers for the 2014 summer board meeting and tour. The meeting host and dates for the summer board meeting/tour will be confirmed at the board meeting on March 27, 2014.

PUBLIC COMMENT PERIOD

Mr. Ellis commented that he is supportive of the decision that Commissioner Lohr is making by leaving the position and putting his family first.

Ms. White asked if there were any legislative bills that were coming before the agency of which the board should be made aware. Commissioner Lohr did mention the possibility of at least one bill as a result of the On-Farm Activities Working Group efforts, and possibly at least one bill addressing the sale of raw milk. Commissioner Lohr also mentioned that Delegate Ed Scott will be the new Chairman of the House Agriculture, Chesapeake and Natural Resources Committee during the 2014 Session of the General Assembly.

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There being no further business, the board adjourned at approximately 11:40 a.m.

Respectfully submitted,

Steve Sturgis
Board President

Kevin Schmidt
Board Secretary