

FINAL MINUTES
BOARD OF AGRICULTURE AND CONSUMER SERVICES

Room 204, Washington Building
Capitol Square, Richmond, Virginia
September 26, 2003

The meeting convened at 9:00 a.m. on Friday, September 26, 2003 in the Washington Building, 1100 Bank Street, Second Floor Board Room, Richmond, Virginia. President Holland called the meeting to order. The Board Secretary called the roll:

PRESENT

Steve Wolfe
L. Bruce Holland
Gatewood Stoneman
T. M. Hardison
Clarence Bryant, III
Andrea Lohr
Jennifer P. Nolen
Mark D. Sickles
Gary B. Brown
Mary Campbell
Warren H. McConnell
Dr. Albert Essel

Dr. Steven H. Umberger

DISTRICT

1st
2nd
3rd
4th
5th
6th
7th
8th
9th
10th
11th
Representing Virginia State
University
Representing Virginia Tech

STAFF PRESENT

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

APPROVAL OF MINUTES

The minutes of the May 15, 2003 meeting were approved as distributed.

REPORT FROM BOARD MEMBERS

Mr. McConnell in his comments about the aftermath of Hurricane Isabel noted that many persons learned what it was like living in the "good-old days" with no electricity, public water, or sewer services. He added that his district still has homes without lights, but that the area fared better than some other regions of the state. Concerning agricultural production, he noted that his horse ranch in the Shenandoah Valley produced some good hay that will help in feeding the animals this winter.

Ms. Campbell reported that the power company hopes to restore power to customers in her district by tonight, September 26. She indicated that most of the school systems in her area were closed for two to three days. She noted that the excessive rain this year has hurt farmers in her area. On consumer issues, Ms. Campbell expressed an interest in the status of the "Do Not Call List" and whether recent Congressional action will clear away the recent judge's decision that would have blocked the FCC's new restriction on certain telephone marketing activities.

Ms. Nolen advised the Board that trees, power lines, and structures in her district were damaged severely by Hurricane Isabel and that all localities in her district have been declared natural disaster areas by President Bush. She noted that the western part of the district experienced significant damage from flooding. She added that seven days after the storm there are still widespread power outages and the power company hopes to restore power to every customer by October 3, 2003. Ms. Nolen talked about consumer concerns with price gouging and scams. She shared with the Board an article on community supported agriculture which appeared in the July 2003 issue of the Richmond Times-Dispatch.

Dr. Umberger, who represented Virginia Tech President Dr. Charles W. Steger provided the Board with a recent publication that includes an overview of the University including its history, its current programs, etc. He also provided the Board with a copy of the budget request for funds to restore critical resources for Virginia Cooperative Extension and the Agricultural Experiment Stations. He pointed out that during recent budget reductions Virginia Cooperative Extension absorbed an unprecedented 20 percent cut, \$6.4 million, which resulted in the loss of 120 Extension positions. He advised that the Virginia Tech Board of Visitors in August approved this critical staffing initiative as part of the University's overall budget request for the 2004-2005 biennium. Dr. Umberger emphasized that the critical positions identified are positions the Extension has to have to be effective and to carry out high priority objectives. He explained that the requested \$3 million would fund 56 positions including 39 Extension agents and 17 Extension specialist positions.

Dr. Essel presented a report on the activities of Virginia State University on behalf of Virginia State President Eddie N. Moore, Jr. He reported that the University suffered storm damage including downed trees across the campus and at Randolph Farm. He noted that the University was closed for three days before electric power could be restored. He reported that Virginia State has started its first doctoral program and that the University is very excited about the interest in this new program. Dr. Essel noted that President Moore is celebrating his tenth year as head of Virginia State. He reported on the success of the field day at Randolph Farm the University held in August. He invited the Board to visit Virginia State's exhibit at the State Fair of Virginia.

Mr. Brown reported that his district was fortunate in not having any damage from Hurricane Isabel. He noted that the wet weather this year is expected to reduce tobacco production in his area by about 35 percent but farmers have an abundance of hay. He added that the corn crop is expected be about 75 percent of a normal year.

Mr. Bryant reported that farmers in his district have experienced major crop losses because of abnormal weather this year. He noted that excessive rainfall from the beginning of the crop season throughout the year probably did more damage to crops than the recent storm. He gave examples of farmers whose crops have been drastically reduced or totally lost because of bad weather. He also noted that farmers now are having difficulties getting their wheat crop planted.

Mr. Hardison congratulated Governor Warner and his staff for mobilizing state resources in anticipation of Hurricane Isabel and getting the federal agency staff in place to deal with the storm. He added that the Commonwealth and the federal government are now challenged to bring these resources to the communities and the people in response to the devastation. He reported on the impact of Perdue's decision to cancel all poultry grower contracts in Isle of Wight County and some contracts in Southampton County and neighboring counties. He noted that local officials are concerned about the economic fallout of Perdue's action and that he has met with the Commissioner of Revenue and other officials to discuss the matter and what can be done to respond to this economic loss.

Concerning Hurricane Isabel, Mr. Hardison advised the Board of the Governor's tour of areas severely damaged in Surry and Isle of Wight counties. He reported that in one area of his district it is estimated that losses included \$4.4 million in cotton, \$350,000 in peanuts, \$800,000 in corn, \$750,000 in soybeans, \$200,000 in cattle, \$900,000 in hogs, \$1,500 in meat goats, \$100,000 in fencing, and 700 homes (damaged or destroyed). He noted that the rough estimate of loss for this one area totals \$7 to \$8 million, but the final estimate may be three or four times the initial totals. He added that one business in his district is reporting a \$20 million loss because of the hurricane.

Mr. Hardison reported that he talked with the Commissioner and Deputy Commissioner before today's meeting and expressed his concerns about the major impact that peanut program changes are having on the communities in his district. He noted that the phasing out of the federal peanut program will be devastating to the economy of the state and peanut-producing localities. He expressed the hope that the Department and the Board will stay aware of this problem and the need for long-term solutions. He added that Commissioner Courter has agreed to meet with his local governing body in October or November to talk about options relating to the poultry and peanut situation.

Mr. Hardison noted that during his visit to the Keystone State, he learned that the head of the Pennsylvania Department of Agriculture answers directly to the Governor of Pennsylvania. He suggested that this direct working relationship between state governor and Ag commissioner is something Virginia may want to consider. Mr. Hardison reported that he will be meeting with the Dean of Science at Penn State to learn about the work of that land grant university in association with agricultural producers.

Ms. Lohr reported that the Shenandoah Valley, for the most part, was spared the severe damages of the hurricane experienced in the Tidewater and other parts of the Commonwealth. She noted that her district was fortunate in getting the amount of rainfall from the storm that was forecasted earlier. She indicated that farmers did have some corn fields flattened by the winds. She reported on the deadline for submitting applications for the state avian influenza indemnity payments has passed and that the monies appropriated for this program will be distributed to qualified applicants in October.

Mrs. Stoneman advised the Board that she had planned to give a report on storm-related agricultural losses in her district today, but was unable to get the data in time for the meeting. She noted that her area has been severely impacted by the storm with considerable tree damage, structural damage, some flooding and crop losses. She added like many others in her area that she is still waiting to have electric power restored. She also reported on the damages created by the recent tornadoes that struck the Richmond area on September 22. She advised the Board that the test weight on wheat this year was very, very poor and that wheat producers have had difficulty selling their crops.

Mr. Wolfe reported that every locality in his district has been declared a disaster area because of storm damage. He noted that the current total damage estimate for his district is roughly \$100 to \$150 million--about 25 percent of the state's total damage estimate. He reported that sustained wind speeds of 87 mph and gusts of 101 mph were clocked in his area. He noted that his district experience widespread electric power outages and that the Northern Neck really took it on the chin. He added that the Town of Colonial Beach located on the Potomac River was one of many communities hit hard by the storm. He indicated that he has not heard of many examples of scamming or price gouging. He advised the Board of the damages experienced by farmers and watermen in his district and noted the damages to docks caused by Hurricane Isabel.

President Holland reported that 2003 has been a very frustrating year for farmers in his district and that the heavy rains in July and August probably did more damage to agricultural crops than the hurricane. He noted that salt air that was blown inland by the recent storm damaged fall vegetable crops, trees, and other plants exposed to the winds. He indicated that even though some of the corn was blown down by the winds, farmers will still be able to harvest all but about five percent of the affected crop. He added that it is too late to replant any of the fall vegetables lost by the storm. He reported that for the year the only bright spots were that the potato and spring vegetable crops were about average.

Mr. Sickles reported on major flooding events caused by the storm which highlighted the need for better emergency planning in the flood plain areas of his district. He noted that the value of vehicles and personal belongings lost or destroyed by the floods was significant. He added that Dominion Power did a better job than the power company that serves customers north of the Potomac River in responding to the power outages.

COMMISSIONER'S REPORT

The Commissioner reported on the following matters:

- *Report on Hurricane Isabel
- *State Milk Commission
- *New State Statistician
- *Virginia Avian Influenza Indemnity Program
- *Reorganization of Division of Animal and Food Industry Services and
Division of Consumer Protection

*Status of JCAR Review of Dairy Regulations

*Governor's Trade Mission to Mexico

*2003 State Fair of Virginia

Following the Commissioner's report, Mr. Hardison and Mr. Wolfe discussed with the Commissioner and staff the status of the two dairy regulations and the possibility of the Board taking action to change the effective dates of the two dairy regulations should it be necessary.

REPORT OF STATE STATISTICIAN

Kevin Barnes, State Statistician, presented a report on the September crop production outlook, a 2002 Census of Agriculture update, the status of rotational survey program activities, and upcoming NASS surveys.

FINAL ACTION - 2 VAC 5-360, REGULATIONS FOR THE ENFORCEMENT OF THE VIRGINIA COMMERCIAL FEED ACT

Dr. Marvin A. Lawson, Director of the Division of Consumer Protection, reviewed with the Board public input received and actions taken in the development of the proposed final regulation 2 VAC 5-360 pertaining to the Regulations for the Enforcement of the Virginia Commercial Feed Act and recommended that the Board adopt the proposed final regulation.

Mr. Wolfe moved that the Board of Agriculture and Consumer Services adopt proposed regulation 2 VAC 5-360, Regulations for the Enforcement of the Virginia Commercial Feed Act; and that the staff be directed to take any and all steps to make these final regulations of the Board. Mrs. Stoneman seconded the motion and it was passed by a unanimous vote of the Board.

FINAL ACTION - 2 VAC 5-320, RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE ENDANGERED PLANT AND INSECT SPECIES ACT

Dr. Lawson reviewed with the Board public input received and actions taken in the development of the proposed final regulation 2 VAC 5-320 pertaining to the enforcement of the Endangered Plant and Insect Species Act. He also reviewed suggested amendments to the original proposed regulation which he recommended be adopted by the Board.

Mrs. Stoneman moved that the proposal be amended as recommended by Dr. Lawson. This motion was seconded by Ms. Nolen and passed by a unanimous vote of the Board.

Dr. Lawson recommended that the Board adopt the proposed final regulation as amended. Mrs. Stoneman moved that the Board of Agriculture and Consumer Services adopt with the amendments presented by Dr. Lawson the proposed regulation 2 VAC 5-320, Rules and Regulations for the Enforcement of the Endangered Plant and Insect Species Act; and that the staff be directed to take any and all steps to make these final regulations of the Board. Mr. Brown seconded the motion and it was passed by a unanimous vote of the Board.

FINAL ACTION - 2 VAC 5-440, RULES AND REGULATIONS FOR THE ENFORCEMENT OF THE VIRGINIA PEST LAW - COTTON BOLL WEEVIL QUARANTINE

Dr. Lawson reviewed with the Board public input received and actions taken in the development of the proposed final regulation 2 VAC 5-440 pertaining to the enforcement of the Virginia Pest Law and the Cotton Boll Weevil Quarantine and recommended that the Board adopt the proposed final regulation.

Ms. Campbell moved that the Board of Agriculture and Consumer Services adopt proposed regulation 2 VAC 5-440, Rules and Regulations for Enforcement of the Virginia Pest Law – Cotton Boll Weevil Quarantine; and that the staff be directed to take any and all steps to make these final regulations of the Board. Ms. Nolen seconded the motion and it was passed by a unanimous vote of the Board.

PETITION REQUESTING REGULATION OF HYDRILLA VERTICILLATA AS NOXIOUS WEED

Dr. Lawson presented a petition submitted by Kyle Hegamyler requesting that the Board regulate Hydrilla Verticillata as a noxious weed and reviewed with the Board a draft response to deny the petition.

Mrs. Stoneman moved that the Board of Agriculture and Consumer Services deny the petition and that staff file the Board's response to the petition with the Virginia Registrar of Regulations. Mr. Brown seconded the motion. After considerable discussion, the Board voted 7-4 to deny Mr. Hegamyler's petition.

Following the Board's vote on the petition, Mr. Sickles moved that staff present at the next meeting of the Board an options paper that provides alternatives for addressing widely disseminated noxious plants in the Commonwealth including but not limited to actions the Virginia Invasive Species Council may take under its authority to deal with plants such as hydrilla. Mr. Bryant seconded the motion and it was passed by a unanimous vote of the Board.

REPORT FROM DIVISION OF ANIMAL AND FOOD INDUSTRY SERVICES (DAFIS)

Dr. David E. Cardin, who represented Dr. Donald W. Butts, Director of the Division of Animal and Food Industry Services, briefed the Board on the consent order VDACS entered into with Page County regarding the Page County Pound.

Dr. Joe Garvin of DAFIS presented a report on West Nile Virus and Equine Eastern Encephalitis.

FUTURE BOARD MEETINGS

The next meeting of the Board is scheduled for December 4, 2003. The first two meetings of 2004 are scheduled for March 18 and June 10.

VIRGINIA'S ANIMAL WELFARE LAWS

Eileen McAfee presented a report on Virginia's Animal Welfare Laws and her concerns for the improvement of the management of animal pounds and shelters in the Commonwealth. She invited the Board members to visit the pounds and shelters in

their areas and learn more about the conditions and management of these facilities.

PUBLIC COMMENT PERIOD

President Holland called for public comment but no persons came forward to speak to the Board.

ADJOURNMENT

The meeting adjourned at 12:30 p.m. The next scheduled Board meeting is December 4, 2003.

Respectfully submitted,

L. Bruce Holland, President

Roy E. Seward, Board Secretary