

## **FINAL MINUTES**

Board of Agriculture and Consumer Services  
Virginia State Capitol, House Room 3  
Richmond, Virginia  
Thursday, December 8, 2016

The meeting of the Board of Agriculture and Consumer Services (Board) convened at approximately 9 a.m. on Thursday, December 8, 2016, in the Virginia State Capitol in Richmond. President Sturgis called the meeting to order. At the President's request, Mr. Mills gave the invocation.

### **ROLL CALL**

The Board Secretary called the roll:

#### **PRESENT**

O. Bryan Taliaferro, Jr.  
Steve Sturgis  
Clifton A. Slade  
Shelley Barlow  
Robert J. Mills, Jr.  
Rosalea R. Potter  
John R. Marker  
Richard Sellers  
Neil Houff  
Kevin J. Kordek  
Lonnie Johnson

#### **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>  
10<sup>th</sup>  
11<sup>th</sup>  
Pesticides – Commercial Agricultural  
Pesticides – Commercial Structural  
Representing Dr. Timothy D. Sands, President,  
Virginia Tech

#### **ABSENT**

L. Wayne Kirby  
Kay Johnson Smith  
James S. Huffard, III  
Dr. G. Dale Wesson  
7<sup>th</sup>  
8<sup>th</sup>  
9<sup>th</sup>  
Representing Dr. Makola Abdullah, President,  
Virginia State University

#### **STAFF PRESENT**

Sandra J. Adams, Commissioner of Agriculture and Consumer Services  
Kevin E. Schmidt, Board Secretary

#### **REMARKS FROM SECRETARY OF AGRICULTURE AND FORESTRY GOODEN**

President Sturgis introduced Secretary of Agriculture and Forestry Gooden, Deputy Secretary of Agriculture Towell, and Assistant Secretary of Agriculture and Forestry Seibel and thanked them for attending the meeting. Secretary Gooden introduced himself and Assistant Secretary Seibel and thanked the Board for its work.

#### **APPROVAL OF MINUTES**

Mr. Mills moved that the draft minutes of the meeting on July 20, 2016, be approved as distributed. Mr. Sellers seconded the motion, and it was passed by a unanimous vote.

#### **REPORT FROM BOARD MEMBERS**

**Clifton Slade**

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Mr. Slade had a very interesting season. Yields and prices were down. There was a perfect storm of imperfect weather. Farmers had low test weights for wheat and also experienced terrible soybean yields. One farmer in his district stated that they made just enough to hopefully go again in 2017.

### **Shelley Barlow**

Ms. Barlow reported she had a great corn crop in September and beautiful harvest weather, but everything else was bad news. In her area, yields were down, but the quality is pretty good. Prices are nothing exciting. It wasn't her worst year, but it was close. Ms. Barlow had some fairly good (over 900 pounds) cotton and also some bad (300 pounds) cotton. Many farmers were advised by insurance adjusters to mow their cotton crop down. She is trying to be optimistic; she had two great years in a row followed by two poor years. She has now closed out the harvest and is planning for 2017.

### **Richard Sellers**

Mr. Sellers reported that there is virtually no agriculture in his area, but there are many consumers and farmers' markets. The produce yields at his wife's church garden were reduced by half due to hot weather. He observed that Virginia has had a lot of rain compared to some other southern states.

### **Kevin Kordek**

Mr. Kordek stated that it was a very productive season in pest control. Bed bugs are rampant. Pest control measures are becoming more sophisticated, but prices are also going up. The Virginia Pest Management Association (VPMA) was very active. VPMA hosted a Master Tech Class for 30 attendees. The VPMA State Technical Meeting was a huge success in September. Realignment of federal overtime and minimum wage laws are a major challenge in the pest control industry.

### **Rosalea Potter**

Ms. Potter reported that yields were also down in the Valley. Corn averaged between 150 to 160 bushels per acre. Beans averaged between 45 and 50 bushels per acre. Rain was inconsistent in her area, which led to inconsistent yields. They experienced a lot of bear damage this year. Overall, her yields were down approximately 30 percent; primarily due to the weather. She recognized the Commissioner and Deputy Commissioner for their assistance in developing strategies to combat bear problems in the future. Her business is currently in meat processing season. Smaller farmers and larger farmers are bringing in livestock to process. Cattle farmers are struggling with dropping prices and steady costs; she is seeing some discouragement as a result.

### **John Marker**

Mr. Marker reported that production on peaches was way down this year. The apple crop will yield about 65 to 70 percent this year, which is less than anticipated. They received five inches of rain in the fall, which cracked a lot of the fruit and made it unfit for harvest. Some corn crops in his area were excellent; some were mediocre. The bean crop varied widely based on when the crop was planted. Livestock producers didn't have fall pasture, but the five inches of fall rain yielded plenty of winter pasture. Most fall calving is over; producers had good weather for calving. The weather during harvest was good.

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### **Bryan Taliaferro**

Mr. Taliaferro reported that small grain production was poor this year, including barley and wheat. As a result of the poor production, acreage is down. If acreage declines to a certain level, they could lose the whole industry. Yields on corn were variable based on location. In his area, yields were well below average. Corn prices were not good; the corn crop was a loss for most growers in the 1<sup>st</sup> district. The soybean crop was average to slightly below average. The soybean quality was good. There was a modest rally in the soybean market; soybean outlook is ok. There was a decent crop of crabs; many consumers complained about how expensive they were. The oyster harvest is going well. The vegetable crop also looks good in his district.

### **Robert Mills**

Mr. Mills reported that it was a rollercoaster year in Southside. The year started off wet, which gave the corn a good start. A late freeze in Southside hurt wheat crop yields. In the summer, they had 62 days of 95 degrees or higher temperatures. The tobacco crop was thin and the quality was poor as a result of the early rains and the summer heat. Hurricane Matthew resulted in six inches of rain during harvest, which caused bacterial soft rot in the tobacco and killed the plants. The tobacco companies purchased some of the crop and the rest was sold at auctions. Contract growers averaged \$2 – \$2.05 a pound; auction prices averaged \$0.60 a pound. Tobacco farmers took advantage of the U.S. Department of Agriculture - Risk Management Agency's tobacco policy to make up the difference. The wheat crop was bad as he's ever seen it. Some wheat was never planted because the ground was too hard. Southside has a lot of cattle growers and cattle prices are way down. At one point, prices were at a high of \$2.60 to \$3 for five-week cattle. There has now been a 65 to 75 percent drop in cattle prices. There was a lack of rain during fall stockpiling time, which has resulted in early cattle feeding. Farmers usually don't start cattle feeding until January. Tobacco farmers are heading into contract season. The organic tobacco industry is booming in Southside. Two new organic tobacco companies entered the Southside market and will be back in 2017. International market supply and demand for tobacco have equalized.

### **Lonnie Johnson**

Mr. Johnson reported that the proposal for the formation of the School of Plant and Environmental Sciences made it through the University's governance procedure and is now waiting for approval from the Virginia Tech Board of Visitors. The School of Plant and Environmental Sciences would merge the current Department of Horticulture, the Department of Crop Soils and Environmental Sciences, and the Department of Plant Pathology and Weed Sciences into one school. Commencement will be December 16, and a number of College of Agriculture and Life Sciences students will graduate. Virginia Cooperative Extension (VCE) is working through some budget issues. VCE has offered a voluntary alternative severance option (early retirement) to a number of extension field faculty members to help address the budget situation. They expect 20 to 21 agents to take advantage of the early retirement. There is also a possibility for an early buy-out for VCE staff in 2017.

### **Steve Sturgis**

Mr. Sturgis reported that the wheat crop hurt farmers in his district. Soybean crop yields were off, but the results depended on the field's location. He had soybean fields between 15 to 59 bushels per acre, depending on how dry the field was. Double crop beans looked better than first crop beans. The potato crop was beautiful and never needed to be irrigated. Potato yields were good. The corn crop was the best he'd ever seen on the Eastern Shore. Wheat planting is

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definitely down on the Eastern Shore. He expects a big drop in wheat production in Virginia and across the country this year.

### **Neil Houff**

Mr. Houff reported that one of the biggest challenges facing the pesticide industry is glyphosate resistant weeds. Some new chemistry and technology was approved, particularly for soybeans, which will be helpful for these types of weeds. Statistics from the Office of Pesticide Services on registered applicators, pesticide business licenses, and state registered pesticide products were mailed to the Board.

### **COMMISSIONER'S REPORT**

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

### **MEETING RECESS FOR PUBLIC HEARING**

At approximately 9:43 a.m., President Sturgis called for a recess to allow the Board and staff to prepare for a public hearing on the proposed regulations for 2 VAC 5-680.

### **SUMMARY OF PUBLIC HEARING FOR 2 VAC 5-680 (REGULATIONS GOVERNING LICENSING OF PESTICIDE BUSINESSES OPERATING UNDER AUTHORITY OF THE VIRGINIA PESTICIDE CONTROL ACT).**

At 10 a.m., President Sturgis opened the public hearing on the proposed regulations for 2 VAC 5-680 (Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Virginia Pesticide Control Act). A court reporter was present to make a record of the hearing, which will be included with the regulatory case file.

President Sturgis called on Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services, to brief the Board concerning the proposed regulations for 2 VAC 5-680.

Staff advised the Board that the proposed regulation was filed with the Registrar of Regulations and published in The Virginia Register of Regulations. The Board was advised that the purpose of the hearing was to provide interested parties an opportunity to comment on the proposal.

President Sturgis asked Secretary Schmidt if anyone signed up to speak. President Sturgis also asked if there was anyone in the audience who wished to speak. No one signed up to speak nor wished to speak.

President Sturgis provided an opportunity for Board questions and advised the Board that, following the end of the public comment period for the proposal, staff will review oral and written comments received and, at a later meeting, present a recommendation on the proposal. President Sturgis then adjourned the public hearing at 10:05 a.m. and reconvened the Board meeting.

### **PROPOSED REVISIONS TO THE VIRGINIA ANIMAL SHELTER CIVIL PENALTY MATRIX-GUIDELINES FOR ENFORCEMENT**

President Sturgis called on Dr.Carolynn Bissett, Program Manager, Office of Veterinary Services and Acting Program Manager, Office of Animal Care and Emergency Response to

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brief the Board on the proposed revisions to the Virginia Animal Shelter Civil Penalty Matrix-Guidelines for Enforcement.

Following Dr. Bissett's presentation and an opportunity for Board questions, Mr. Mills moved that the Board of Agriculture and Consumer Services adopt the proposed revisions to the Virginia Animal Shelter Civil Penalty Matrix- Guidelines for Enforcement as presented by staff and authorize staff to take any and all steps necessary to file this revised administrative procedure with the Virginia Registrar of Regulations. Mr. Marker seconded the motion, and it was carried by a unanimous vote of the Board.

### **PROPOSED VIRGINIA LIVESTOCK AND POULTRY LAW AND RELATED REGULATIONS CIVIL PENALTY MATRIX- GUIDELINES FOR ENFORCEMENT**

President Sturgis called on Dr.Carolynn Bissett, Program Manager, Office of Veterinary Services and Acting Program Manager, Office of Animal Care and Emergency Response to brief the board on the proposed Virginia Livestock and Poultry Law and Related Regulations Civil Penalty Matrix- Guidelines for Enforcement.

### **MEETING RECESS FOR PUBLIC HEARING**

At approximately 10:30 a.m., President Sturgis adjourned the Board meeting to begin the public hearing on the proposed regulations for 2 VAC 5-670.

### **SUMMARY OF PUBLIC HEARING FOR 2 VAC 5-670 (RULES AND REGULATIONS FOR ENFORCEMENT OF THE VIRGINIA PESTICIDE LAW)**

At 10:30 a.m., President Sturgis opened the public hearing on the proposed regulations for 2 VAC 5-670 (Rules and Regulations for Enforcement of the Virginia Pesticide Law). A court reporter was present to make a record of the hearing, which will be included with the regulatory case file.

President Sturgis called on Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services, to brief the Board concerning the proposed regulations for 2 VAC 5-670.

Staff advised the Board that the proposed regulation was filed with the Registrar of Regulations and published in The Virginia Register of Regulations. The Board was advised that the purpose of the hearing was to provide interested parties an opportunity to comment on the proposal.

President Sturgis asked Secretary Schmidt if anyone signed up to speak. President Sturgis also asked if there was anyone in the audience who wished to speak. No one signed up to speak nor wished to speak.

President Sturgis provided an opportunity for Board questions and advised the Board that, following the end of the public comment period for the proposal, staff will review oral and written comments received and, at a later meeting, present a recommendation on the proposal. President Sturgis then adjourned the public hearing at 10:35 a.m. and reconvened the Board meeting

### **PROPOSED VIRGINIA LIVESTOCK AND POULTRY LAW AND RELATED REGULATIONS CIVIL PENALTY MATRIX- GUIDELINES FOR ENFORCEMENT- CONTINUED**

President Sturgis called on Dr. Carolynn Bissett, Program Manager, Office of Veterinary Services and Acting Program Manager, Office of Animal Care and Emergency Response to

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resume her presentation on the proposed Virginia Livestock and Poultry Law and Related Regulations Civil Penalty Matrix- Guidelines for Enforcement.

Following Dr. Bissett's presentation and an opportunity for Board questions, Mr. Mills moved that the Board of Agriculture and Consumer Services adopt the proposed Virginia Livestock and Poultry Law and Related Regulations Civil Penalty Matrix- Guidelines for Enforcement as presented by staff and authorize staff to take any and all steps necessary to file this new administrative procedure with the Virginia Registrar of Regulations. Ms. Potter seconded the motion, and it was carried by a unanimous vote of the Board.

### **PESTICIDE CONTROL FUND UPDATE – LARRY NICHOLS, DIRECTOR, DIVISION OF CONSUMER PROTECTION**

President Sturgis called on Larry Nichols, Director, Division of Consumer Protection. Mr. Nichols provided an update on the Pesticide Control Fund and answered questions from Board members.

### **NOTICE OF INTENDED REGULATORY ACTION – 2 VAC 5-675 (REGULATIONS GOVERNING THE PESTICIDE FEES CHARGED BY THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES)**

President Sturgis called on Liza Fleeson Trossbach, Program Manager, Office of Pesticide Services. Ms. Fleeson Trossbach briefed the Board on the proposed Notice of Intended Regulatory Action for 2 VAC 5-675.

Following Ms. Trossbach's presentation and an opportunity for Board questions, Mr. Mills moved that the Board of Agriculture and Consumer Services authorize staff to take any and all steps necessary to file a Notice of Intended Regulatory Action for 2 VAC 5-675, Regulations Governing the Pesticide Fees Charged by the Department of Agriculture and Consumer Services, for public comment. Ms. Potter seconded the motion, and it was carried by a unanimous vote of the Board.

### **RECOGNITION OF PAST BOARD MEMBERS**

President Sturgis recognized past board member Kirk Wiles for his service to the Board. President Sturgis presented Mr. Wiles with a certificate of appreciation on behalf of the Department and Board. President Sturgis also recognized, in absentia, Dr. Mark McCann and Liz White for their service to the Board.

### **NEW BUSINESS**

No new business was introduced.

### **FUTURE BOARD MEETINGS**

President Sturgis announced that the dates for meetings of the Board in 2017 are set for March 23 and May 25 in Richmond. He stated that the summer Board meeting and tour have not been scheduled yet.

### **PUBLIC COMMENT PERIOD**

President Sturgis called on Mr. Buck Thorpe, who was representing the Virginia Crop Production Association (VCPA). Mr. Thorpe read a statement from the VCPA expressing its concerns about the Virginia Pesticide Control Fund (VPCF). The VCPA requested more oversight and transparency concerning the sources and uses of the VPCF. The VCPA also

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requested that the VPCF-funded study concerning the Decline of the Honeybee be continued and funded in its entirety.

Mr. Thorpe then continued on his own behalf to express his concerns about the lack of discussion about the sources and uses of the VPCF at Board of Agriculture and Consumer Services meetings. He stated that discussions about the VPCF were more frequent and thorough before the Virginia Pesticide Control Board was absorbed into the Board of Agriculture and Consumer Services. Mr. Kordek shared information with Mr. Thorpe related to the history of the VPCF and language in the Code of Virginia that created the VPCF.

President Sturgis then recognized former board member and President and CEO of Paradise Springs Winery, Kirk Wiles. Mr. Wiles discussed his concerns about HB 879, which passed during the 2016 Session of the General Assembly. The bill targeted two farm wineries in his district, including Mr. Wiles', and stripped those wineries of their status as agricultural businesses. This resulted in high permitting fees and other difficulties. Mr. Wiles stated that a new bill will be introduced during the 2017 Session of the General Assembly that will reinstate the farm wineries as agricultural businesses and asked the Board for its support.

### **ADJOURNMENT**

There being no further business, the Board adjourned at approximately 11:53 a.m.

Respectfully submitted,

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Steve Sturgis  
Board President

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Kevin Schmidt  
Board Secretary