VIRGINIA CAVE BOARD
Richmond, Virginia
September 1, 2015

D R A F T M I N U T E S

TIME AND PLACE
The meeting of the Virginia Cave Board was convened at 11:00 a.m. in the Board Conference Room, Department of Conservation and Recreation, 600 S. Main Street, 24th Floor, Richmond, Virginia 23219.

MEMBERS PRESENT
Steve Lindeman, Vice Chairman
Dr. Daniel Doctor
David Ek
John Graves
Janet Tinkham

MEMBERS ABSENT
Robert Denton, Jr.
Dr. John Haynes
Rick Lambert
Marian McConnell
Meredith Weberg, Chairman

STAFF PRESENT
Clyde E. Cristman, Director, DCR
Rochelle Altholtz, Deputy Director, Administration and Finance
David Dowling, Deputy Director, Dam Safety, Soil and Water Conservation
Michael Fletcher, Board Liaison
Lisa McGee, Director, Policy and Planning
Will Orndorff, Karst Protection Coordinator
Tom Smith, Division Director, Natural Heritage

Matthew Gooch, Office of the Attorney General
Alan Gernhardt, Virginia Freedom of Information Council
Jessica Coleman, Office of the Attorney General

ESTABLISHMENT OF A QUORUM
With five (5) members of the Board present, a quorum was not established.

WELCOME AND INTRODUCTIONS

In the absence of the Chair, Mr. Lindeman opened the meeting as Vice Chair and welcomed the Board members and attendees. He noted for the record that a quorum had not been established and asked for Board members and staff introductions.

APPROVAL OF MINUTES

The approval of the June 6, 2015 meeting minutes will be placed on the agenda for the next Board meeting and the establishment of a quorum of members.

DIRECTOR'S REPORT

Director Cristman welcomed the members of the Board and meeting attendees. He advised the Board that the primary purpose of the meeting was to discuss the Freedom of Information Act (FOIA) and how specifically the Board should perform their duties under that Act. Mr. Cristman introduced Matthew Gooch from the Attorney General's Office and Alan Gernhardt, from the FOIA Council, and thanked them for taking the time to meet with the Board and staff regarding FOIA training.

Director Cristman provided an update regarding the Atlantic Coast Pipeline Project. He informed the Board that the Governor's office wishes to establish a coordinated response for the Commonwealth with input from state agencies to include the Department of Forestry, the Department of Game and Inland Fisheries, the Department of Conservation and Recreation and others affected. He commented a coordinated response would eliminate the Federal Energy Regulatory Commission (FERC) from receiving comments from multiple state agencies and would ensure a concise message that represents all input. Director Cristman ensured the Board that they would have an opportunity to provide input for the Governor's response.

A member asked if there would be a parallel effort regarding the Mountain Valley Pipeline. Director Cristman responded that he did not believe the Mountain Valley Pipeline would be included in this particular response; however the Cave Board members could provide comments to the Department. Comments would be forwarded to the Governor's office and FERC during the appropriate comment period.

BOARD RESPONSIBILITIES

Mr. Fletcher provided a brief summary overview of the Cave Board responsibilities and duties as outlined in the *Code of Virginia*. Mr. Fletcher advised that in order to assist the Board members, a new Cave Board Member resource page would be added to the Cave Board section of the DCR web page. The resource page will provide links to the relevant sections of the *Code of Virginia*, the Knowledge Center, Freedom of Information Act resources, information on parliamentary procedures and other resources applicable to the Board. Mr. Fletcher said that he expected the resource page to be available prior to the October 3, 2015 board meeting and requested the Board members to provide him with any input regarding the inclusion of other resources that could be valuable to the members.

FOIA TRAINING

Mr. Gooch and Mr. Gernhardt led a discussion of the Virginia Freedom of Information Act particularly as it pertains to board members. A copy of the Power Point presentation given by Mr. Gooch is available from DCR.

The discussion focused primarily on records of the Board and meeting requirements. A summary of the main points of the presentation are as follows:

- By enacting FOIA, the General Assembly ensures the people of the Commonwealth ready access to public records in the custody of a public body or its officers and employees and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government. *Code of Virginia* §2-2-3700.

- The provisions of FOIA shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government. Any exemption from public access to records or meetings shall be narrowly construed and no record shall be withheld or meeting closed to the public unless specifically made exempt pursuant to this chapter or other specific provision of law.

- "Public records" means all writings and recordings, however the are stored and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. *Code of Virginia* §2.2-3701. *It was recommended that the Board members utilize a separate email account for Board related correspondence and route any correspondence for the full Board through the Board Liaison, Mr. Fletcher for dissemination and records retention.*

- Minutes, including draft minutes, and all other records of open meetings, including audio or audio/visual records shall be deemed public records and subject to the provisions of this chapter. *Code of Virginia* §2.2-3701(I).

- The custodian of such records shall take all necessary precautions for their preservation and safekeeping. *Code of Virginia* § 2.2-3704.

- All meetings of a public body should be properly noticed and open to the public unless an exemption is specifically provided by §2.2-2711. A meeting occurs when more than 2 members gather to discuss any business of the Board. By having to notice meetings and conduct all business in public, the Board was advised to refrain from conducting any

business via telephone or through electronic means if more than 2 members were actively participating in the discussion.

- Any action (voting) taken by the Board must be done in a public meeting and all meetings must be publically noticed a minimum of 3 days in advance of the meeting unless an emergency meeting is deemed necessary.

- Individual committee meetings are required to be noticed and open to the public and minutes are required of all public body meetings. The members agreed that future meetings would include the Board work sessions on the agenda of the full Board meeting.

The Board was advised to contact Mr. Fletcher as soon as possible should any member receive a FOIA request for records. Mr. Fletcher is the FOIA Officer for the Department and Ms. McGee is available if the Board is unable to reach Mr. Fletcher. The Freedom of Information Act requires a response to a records request within 5 business days, and working with the Department would decrease or eliminate any possibility of the Board or Department not maintaining compliance.

FOIA handouts were provided to the members for their review and Mr. Gernhart offered to members to contact the FOIA Council if they have any questions. The FOIA Council is responsible for providing opinions about the application and interpretation of FOIA, providing FOIA training and for publishing educational materials. (http://foiacouncil.dls.virginia.gov)

BOARD DISCUSSION

Mr. Lindeman commented that the Board had previously sent a letter in support of a grant from the U.S. Forest Service Land and Water Conservation Fund regarding purchase of land on High Knob in Western Virginia. He noted that the new round of the grant would close before the October meeting. Consensus of the members present was since the letter was previously approved by the Board, the Chairman had the authority to send a similar letter on behalf of the Board for the next round.

Discussion followed that the Board consider authorizing the Chair to act on their behalf in matters such as this. The Chair could speak individually with members to get a sense of the Board and suggested language but further formal action by the Board would not be necessary. It was recommended that this be an agenda item for the next meeting and the Board consider implementing the authority into Board by-laws. Staff will prepare a draft of bylaws for initial consideration by the Board at the next Board meeting.

NEW BUSINESS

There was no new business.

PUBLIC COMMENT
There was no public comment.

ANNOUNCEMENTS
Mr. Tom Smith noted that Mr. Larry Smith had retired at the end of August after a long career with DCR and working with the Cave Board.
The next meeting of the Virginia Cave Board will be Saturday, October 3 in Grottoes, Virginia.

ADJOURNMENT
The meeting was adjourned at 1:30 p.m.

Submitted by

_____
Michael Fletcher
Board and Constituent Services Liaison