

**Soil and Water Conservation Board Virtual Meeting
April 21, 2021**

TIME AND PLACE

The meeting of the Virginia Soil and Water Conservation Board took place at 11:00 a.m. on Wednesday, April 21, 2021 via GoToMeeting.

VIRGINIA SOIL AND WATER CONSERVATION BOARD MEMBERS PRESENT

Charles A. Arnason, Chair
Adam D. Wilson, Vice-Chair
Mario Albritton
Kristen Saacke-Blunk
Jay C. Ford
Pamela Mason
Kat Maybury
Charles Newton
Dr. Dahlia O'Brien
Clyde E. Cristman, DCR Director, Ex Officio
Dr. Edwin M. Martinez, NRCS, Ex Officio
Daniel Goerlich, Virginia Cooperative Extension, Invitee

DCR STAFF PRESENT

Russell W. Baxter, Deputy Director for Soil and Water Conservation and Dam Safety and Floodplain Management
Darryl Glover, Director, Division of Soil and Water Conservation
Wendy Howard-Cooper, Director, Division of Dam Safety and Floodplain Management
Christine Watlington Jones, Policy and Regulatory Coordinator
Michael Fletcher, Board and Constituent Services Liaison
Nathan Burrell, Deputy Director, Government and Community Relations
Angela Ball, Conservation District Coordinator
Stuart Blankenship, NPS Data Services Manager
David Bryan, Agricultural Incentives Program Manager
Debbie Cross, Conservation District Coordinator
Kimberly Freiburger, Policy Analyst
Jaclyn Friedman, Conservation District Coordinator
Blair Gordon, SWCD Liaison
Stacy Horton, Conservation District Coordinator
Sheila Jaruseski, Colonial SWCD
Nicole Keller, Program Technician
Sharon Partee, Director of Finance

Marissa Roland, Conservation District Coordinator
Robert Shoemaker, Nutrient Management Specialist
Carl Thiel-Goin, Conservation Planning and Training Coordinator
Amy Walker, Eastern Area Manager
Aaron Wendt, Shoreline Engineer
Jerald Hess, Office of the Attorney General

OTHER PRESENT

LaVerne Calhoun, Tidewater SWCD
Anne Coates, Thomas Jefferson SWCD
Tracy Culbertson Tri-County SWCD
Katie Hellebush, Hellebush Consulting
Steve Hill, Culpeper SWCD
Adrienne Kotula, Chesapeake Bay Commission
Matt Kowalski, Chesapeake Bay Foundation
Dominique Lavorata, Thomas Jefferson PDC
Luke Longanecker, Thomas Jefferson SWCD
Sam Markwith, Tidewater SWCD
Cynthia Miller, Robert E. Lee SWCD
Martha Moore, Virginia Farm Bureau
Amy Moyer, Thomas Jefferson SWCD
Lisa Ochsenhirt, Aqualaw
Jason Powell, Senate Finance Committee
David Reynolds, House Appropriations Committee
Carmie Savage, Eastern Shore SWCD
Kyle Shreve, Virginia Agribusiness Council
Dr. Kendall Tyree, Virginia Association of Soil and Water Conservation Districts
Greg Wichelns, Culpeper SWCD

ESTABLISHMENT OF A QUORUM

With nine (9) members of the Board present, a quorum was established.

CALL TO ORDER AND CERTIFICATION OF ELECTRONIC MEETING

Chairman Arnason called the meeting to order at 10:00 a.m. and gave the following remarks.

Good morning, I would like to call this virtual meeting of the Virginia Soil and Water Conservation Board to order.

Generally, public bodies are prohibited from meeting electronically under the provisions of the Freedom of Information Act (FOIA). However, language approved by the Governor and General Assembly in Chapter 56 of the 2020 Special Session 1 Acts of Assembly allows us to move forward with certain restrictions that I will outline below.

Before I review those provisions, please let me take a moment to review how this meeting will work. We want to allow for participation by Board members, staff, and members of the public who wish to comment. However, it is essential that we are able to manage the conversation effectively.

I am chairing this meeting today from the DCR offices in downtown Richmond. I have with me Christine Watlington Jones, Blair Gordon, and Michael Fletcher. They will assist with presentations, responding to comments, and the overall coordination of the meeting.

Please be patient with all of us as we work through this. We understand and appreciate the challenges.

Chapter 56 of the 2020 Special Session 1 Acts of Assembly, also known as the “Budget Bill,” includes language addressing the ability of public bodies to conduct electronic meetings without the need for a quorum being present in a single physical location (“Electronic Meeting”).

The Budget Bill allows public bodies to hold Electronic Meetings when the Governor has declared a state of emergency pursuant to §44-146.17 if:

“(i) the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location;

(ii) the purpose of the meeting is to discuss or transact the business statutorily required or necessary to continue operations of the public body...and the discharge of its lawful purposes, duties, and responsibilities...” §4-0.01(g).

The Budget Bill also has language regarding recordings and transcriptions of Electronic Meetings. Please be advised that this meeting is being recorded. This recording will be available to the public through the DCR website. The comments in the chat room will also be preserved as a public record. Official minutes of this meeting will be drafted and posted in accordance with regular procedures.

The Budget Bill does not allow the Board to hold an Electronic Meeting to discuss or transact business for *any purpose*. Rather, they may do so as long as the agenda items that the public

body plans to take up are: (a) statutorily required or (b) necessary to continue operations and discharge lawful purposes, duties and responsibilities.

It is the Board's responsibility to determine whether "the nature of the declared emergency makes it impracticable or unsafe for the public body or governing board to assemble in a single location."

At the conclusion of my remarks, I will ask for a motion for the board to make this determination. If that motion fails, this electronic meeting will end at that point.

The Budget Bill requires compliance with the provisions of § 2.2-3708.2. Therefore, in accordance with § 2.2-3708.2.D.2, public bodies must include a telephone number that may be used to notify the public body of any interruption in the telephonic or video broadcast of the meeting.

In the event that a disruption occurs, participants should contact Mr. Fletcher by phone or text at 804-317-8934.

Additionally, if there is an interruption in the broadcast, the meeting must be suspended until public access is restored.

Those provisions of the Virginia Freedom of Information Act not addressed by the Budget Bill remain in effect.

Before we continue with the business portion of the meeting, I will ask Mr. Fletcher to call the roll for Board members and anticipated staff. Other participants will be recorded through the chat window. If you are participating by phone and your name is not called, please call or text Mr. Fletcher at 804-317-8934.

In addition, if at any time you lose connection and are unable to reconnect, please contact Mr. Fletcher at the same number.

I will now turn to Mr. Fletcher for the calling of the roll:

ROLL CALL

PRESENT: Charles A. Arnason, Chair
Adam D. Wilson, Vice-Chair
Mario Albritton
Kristen Saacke-Blunk
Jay C. Ford

Pamela Mason
Kat Maybury
Charles Newton
Dr. Dahlia O'Brien

ABSENT: None*

*Mr. Albritton and Dr. O'Brien arrived later in the meeting.

Mr. Wilson moved the following:

The Virginia Soil and Water Conservation Board certifies that the nature of the declared COVID-19 emergency makes it impracticable or unsafe for the Board to assemble in a single location and further that the agenda items to be taken up at this meeting are necessary to continue operations and discharge lawful purposes, duties, and responsibilities of the Board.

Ms. Mason seconded and the roll call vote was as follows:

AYE: Arnason, Saacke Blunk, Mason, Wilson, Newton, Maybury, Ford

NAY: None

Chairman Arnason continued.

I want to explain further how we will handle participation by board members, staff, and the public. Everyone, except the individual presenting materials for an agenda item, will be muted. Once the presentation is completed, the board members, and only board members, will be unmuted for discussion. Michael, Christine, and Blair will assist me with ensuring board members are recognized when they have questions or comments. As needed, staff will be unmuted to address questions or concerns. Members of the public will be able to ask questions and provide input by utilizing the chat box function only. As time allows, we will respond to those questions and comments.

We will now proceed with the business of the Board as outlined in the agenda.

APPROVAL OF MINUTES FROM MARCH 16, 2021

Mr. Newton moved that the minutes from the March 16, 2021 virtual meeting of the Virginia Soil and Water Conservation Board be approved as submitted. Mr. Wilson seconded and the roll call vote was as follows:

AYE: Arnason, Saacke Blunk, Mason, Wilson, Newton, Ford

NAY: None

ABSTAIN: Maybury

DIRECTOR'S REPORT – *Clyde E. Cristman, DCR Director*

Director Cristman reminded the Board that at the March 2021 meeting he reviewed the proposed funding for the Virginia Agricultural Cost-Share Program. He reported that, unlike in prior years, the Governor proposed amendments which have already been approved by the General Assembly.

As the budget is finalized, at the May meeting, the Board will be approving final amounts. Staff will be able to provide Chapter reference numbers for those approved funds.

AUDIT SUBCOMMITTEE REPORT – *Adam D. Wilson, Subcommittee Chair*

Mr. Wilson reported that the Audit Subcommittee met and reviewed the audit results. He commented that he was pleased to report there were very few issues across the state and that these have been addressed. He commended Districts for their work in a challenging year.

The Subcommittee approved a letter to be sent to Districts.

The Subcommittee will meet again in September.

SOIL AND WATER CONSERVATION DIVISION REPORT – *Christine Watlington Jones, Policy and Regulatory Coordinator*

Approval of the Board's Fiscal Year 2022 Virginia Agricultural Cost-Share (VACS) BMP Manual

Ms. Watlington Jones reminded the Board that the revisions for the FY2022 VACS manual were discussed in detail at the last meeting.

BOARD ACTION

Ms. Mason moved that the Virginia Soil and Water Conservation Board approve the 2022 Virginia Agricultural Cost-Share BMP Manual as presented. The Department is authorized to make non-substantive changes to include formatting and stylistic changes as necessary to all approved sections of the Manual.

Mr. Newton seconded and the roll call vote was as follows:

AYE: Arnason, Saake Blunk, Mason, Wilson, Newton, Maybury, Ford, Albritton

NAY: None

Review of Board Policy on Soil and Water Conservation District Administration and Operations Funding Allocations for Fiscal Year 2022

Ms. Watlington Jones advised that there were no changes to the District allocations for administration and operations. She noted the following revisions to the Policy:

- Amending date references (FY2021 to FY2022; updated calendar dates);
- Revised references to the 2021 Appropriation Act and language in the Act;
- Shifting of funds to provide more funding for audits (\$104,000 to \$112,500)
 - 24 audits need to be completed this upcoming year

Ms. Watlington Jones reported that the amendments with the largest impact were to the Association of Soil and Water Conservation Districts grant. Those include:

- Grant amount has been increased from \$46,700 to \$51,000;
- Broaden responsibilities for District staff trainings to include both administrative and technical staff;
- Requirement to provide training for District directors remains, as does the requirement to assist with District-led committees (Marketing committee; Admin and Ops committee, Education committee, etc.);
- Allows the Association to contract with certified professionals (accountants, human resource, information technology, etc.) to provide trainings and placing these individuals on retainer for assistance.; and
- These changes reflect the increased training role the Association has undertaken in the past year with the training blitz and anticipate the training efforts to continue.

Ms. Watlington Jones also noted that language under the Department requirements for training to be conducted for administrative and technical staff was removed. The Association and the Department will coordinate training efforts, including what training is needed. This will be more efficient and effective. Dr. Tyree has reviewed the language and is comfortable with the revisions and expectations.

Ms. Mason expressed concern regarding District abilities to be able to expend training funds if training continues to remain virtual.

Ms. Watlington Jones replied that the Department and Association are confident that funds will be expended.

Review of Administration and Operations Support Grant Agreement for Fiscal Year 2022

Ms. Watlington Jones reviewed the Administration and Operations Support Grant Agreement for Fiscal Year 2022. She noted the following revisions:

- Amending date references (FY2021 to FY2022; updated calendar dates);
- Removed requirement to complete the Budget Template as it is an every other year deliverable; this should have removed in the deliverable table (#8) as well;
- Revised training requirement for FOIA Officers to every 2 years in response to statutory change;
- Revised language related to new director orientation to remove dates that have passed (language was provided due to the timing of COVID and was a one-time consideration);
- Revised training requirement for records retention officer to require training every third year; training requirement is met through trainings provided by the Library of Virginia (mainly online trainings); and
- Revised the training chart to remove the limitations on how trainings are provided and who may provide them

Mr. Newton asked for clarification regarding the deadline for the submission of Attachment D.

Ms. Gordon explained that Attachment D has been included in the requirement for the current grant agreement. The submission deadline is July 15, 2021.

Review of Board Policy on Soil and Water Conservation District Cost-Share and Technical Assistance Funding Allocations for Fiscal Year 2022

Ms. Watlington Jones noted that there were few changes to the policy other than the funding amount.

Ms. Watlington Jones reviewed the funding and revisions.

- Total funding provided for VACS this year (includes additional recordation revenues from FY2020 and amounts that remained unobligated from FY2021) = \$73,770,964
 - Areas within the Chesapeake Bay watershed: \$52,344,130

- Areas outside the Chesapeake Bay watershed: \$21,426,834
- Allocations show two key considerations made by the Department:
 - No District was recommended for an allocation of more than \$5,000,000 in cost-share funds for FY2022.
 - Additionally, allocations are recommended based, in part, on Districts' previous years' obligations and cost-share funding requests.
- Additional considerations related to the allocation recommendations include:
 - Other available funding sources (federal grant such as the Most Effective Basin and Mountain Valley Pipeline funding)
 - For areas outside the Bay: the presence of TMDL implementation plan projects underway
- Total technical assistance funds = \$9,750,000
 - Base technical assistance remains the same as last year
 - Base technical assistance will be reviewed and revised, as needed, based on the budget template information submitted by the Districts in July
 - An additional \$5,221,364 is available in technical assistance above the base level
- Revisions include:
 - Amending date references (FY2021 to FY2022; updated calendar dates);
 - Revised references to the 2021 Appropriation Act and language in the Act;
 - Reflecting definition of agricultural land as it was recommended in the updates to the VACS Manual;
 - For FY2022, \$69,550,000 in general funds are available for cost-share and technical assistance;
 - Removed reference to SL-6 "backlog" practices; those practices need to be completed by the end of the current fiscal year;
 - Revised participant cap amount to reflect the recommendation in the updates to the VACS manual; and
 - Updated dates on map; HUC rankings remain the same as a new nonpoint source assessment won't be available until next year.

Ms. Mason inquired about the high priority cost share funding for a section of Newport News.

Director Cristman noted that was likely the Newport News City Farm, an old jail camp.

Review of Cost-Share and Technical Assistance Grant Agreement for Fiscal Year 2022

Ms. Watlington Jones indicated there were very few changes. She noted the following revisions.

- Amending date references (FY2021 to FY2022; updated calendar dates);

- Included conservation planning requirements in the list of administrative items Districts consider and comply with as outlined in the VACS manual;
- Included requirement to submit District-board approved average cost list before the District approves any cost-share applications;
- Require District technical staff to attend annual VACS program updates; this is more appropriate name for the presentations that happen annually. Districts already attend this annual; not a new requirement;
- Revised language regarding secondary considerations to reflect previous years' requirement; language allowing use of previous year's secondary considerations was provided due to the timing of COVID and was a one-time consideration; and
- Technical corrections – references made to DCR tracking application versus Conservation Application Suite.

Ms. Watlington Jones advised that was the last of the documents that the Board would vote on at the May meeting.

Approval of Extension for Conservation Planning Recertification Requirements

Ms. Watlington Jones advised that this was the first renewal cycle for this program. The program began on July 1, 2018 with certificates effective for three years. In order to be eligible to renew the Program certificate, an individual must achieve 30 contact hours of continued education and submit a conservation plan to the Department for review and approval.

Since the beginning of the program, 142 contact hours have been offered, with 57 contact hours offered last year. However, there are individuals who have not yet achieved the 30 contact hours, although their certificates are due to expire beginning in July.

The Department is discussing additional methods to inform individuals of upcoming certificate expirations and training opportunities.

Ms. Maybury asked how many individuals the number of reported hours represented.

Ms. Watlington Jones noted that the number of hours represented the total number of training hours offered. Planners are required to have thirty contact hours.

Mr. Glover advised that if the extension were not granted, planners would have to start the certification over from the beginning.

BOARD ACTION

Mr. Wilson moved that the Virginia Soil and Water Conservation Board approve a one-time extension for conservation planners whose certificates will expire in 2021. An extension of 60 days from the date of certificate expiration will be provided for a conservation planner to achieve the necessary contact hours (30) and to submit a conservation plan for review by the Department.

Ms. Saacke Blunk seconded and the roll call vote was as follows:

AYE: Arnason, Saacke Blunk, Mason, Wilson, Newton, Maybury, Ford, Albritton

NAY: None

District Director Appointments and Resignations

Ms. Watlington Jones presented the recommended District Director appointments and Resignations.

Colonial

Appointment of Mr. David Beals, of Williamsburg, effective 4/21/2021, to fill the vacant un-expired elected director position of Mr. Richard Phillips (term of office expires 1/1/2024).

Evergreen

Resignation of Mr. Seth Umbarger, of Smyth County, effective 4/1/2021, at-large appointed director (term of office expires 1/1/2023).

BOARD ACTION

Ms. Mason moved that the Virginia Soil and Water Conservation Board approve the appointment of the person being recommended. Mr. Newton seconded and the roll call vote was as follows:

AYE: Arnason, Saacke Blunk, Mason, Wilson, Newton, Maybury, Ford, Albritton

NAY: None

Approval of transfer of funds for projects funded through the Soil and Water Conservation District Dam Maintenance, Repair, and Rehabilitation Fund

Ms. Watlington Jones advised that in December 2019, the Board approved the Culpeper Soil and Water Conservation District project (SDR20001): Beautiful Run #4 design and construction

of primary conduit slip lining (ID#20-11) in the amount of \$181,000. The projects are similar and both need to be completed.

Beautiful Dam #4 needs additional permitting (VSMP); and Culpeper would like to transfer funds to project SDR20003 (Beautiful Run #6 design and construction of primary conduit slip lining).

The recommended motion would authorize the transfer of up to \$153,000 from project Beautiful #6.

Funds that have been previously provided to the Culpeper Soil and Water Conservation District for the anticipated construction activities at Beautiful Run #4 (SDR20001) will be returned to the Department prior to funding be provided for construction project Beautiful Run #6 (SDR20003).

BOARD ACTION

Ms. Saacke Blunk moved that the Virginia Soil and Water Conservation Board approve the transfer of funding from project SDR20001 (Beautiful Run #4 design and construction of primary conduit slip lining) to project SDR20003 (Beautiful Run #6 design and construction of primary conduit slip lining). Up to \$153,000 may be transferred from project SDR20001 to project SDR20003 for the construction of a primary conduit slip lining at Beautiful Run #6.

Any funds that have been previously provided to the Culpeper Soil and Water Conservation District for the anticipated construction activities at Beautiful Run #4 (SDR20001) shall be returned to the Department prior to funding be provided for construction project Beautiful Run #6 (SDR20003).

Mr. Wilson seconded and the roll call vote was as follows.

AYE: Arnason, Saacke Blunk, Mason, Wilson, Newton, Maybury, Ford, Albritton

NAY: None

NEW BUSINESS

Ms. Watlington Jones advised that a Board member had requested that the Board try to address District concerns regarding the increased cost of materials. Letters from Thomas Jefferson SWCD and Shenandoah Valley SWCD were provided to member prior to the meeting.

Ms. Watlington Jones noted that the Department developed language related to the average cost list for FY2022 in the VACS BMP manual. She commented that the issue has been complicated by the knowledge that in many cases (i) producers have gone forward with installing and implementing BMPS at a higher cost to themselves; (ii) producers and Districts have revised plans to reduce costs; and (iii) even if Districts approved increased costs for BMPs this late in the program year, many Districts no longer have the funds to cover those costs.

Ms. Watlington Jones indicated that the recommendation would apply to all Districts and would be similar to how practice failures are handled by the VACS Program.

BOARD ACTION

Mr. Newton moved the following and Mr. Ford seconded.

In response to the unanticipated and significant increase in the cost of certain materials during FY2021, the Virginia Soil and Water Conservation Board authorizes Soil and Water Conservation Districts (Districts) to provide additional cost-share funding to producers to offset the increased cost of materials under the following conditions:

1. Only contracts from FY2020 and FY2021 that are not yet paid and are placed into Carryover status going into FY2022 are eligible;
2. The carryover contracts must be for the following types of practices:
 - a. SL-6N and SL-6W practices;
 - b. WP-2N and WP-2W practices;
 - c. WP-4, WP-4B, WP-4C, WP-4F, WP-4FP, WP-4LC, WP-4LL and WP-4SF practices;
and
 - d. the SL-7 practice.
3. Upon the District's adoption of a new, increased average cost list for FY2022, the District will be eligible to utilize the new FY2022 average cost list to make revised cost estimates (i.e. Estimated Instance Cost and Estimated Cost Share Payments) for the impacted carryover FY2020 and FY2021 contracts.
4. The District, working in cooperation with their Conservation District Coordinator and Department Data Services Staff, is authorized to utilize, as needed, the District's FY2022 Virginia Agricultural Cost-Share (VACS) Program allocation to send back additional FY2022 funds to the impacted FY2020 and FY2021 contracts. All contract increases must be approved by the local District Board by way of formal motion as recorded in the minutes.
5. The District is not authorized to provide additional FY2021 VACS Program funds to contracts that exceed the Estimated Instance Cost developed in accordance with the District's approved FY2021 average cost list.

6. All FY2021 VACS Program funds that remain unobligated at the end of the fiscal year shall be returned to the Department, along with the proportional amount of technical assistance funds, in accordance with the *Virginia Soil and Water Conservation Board Policies and Procedures on Soil and Water District Cost-Share and Technical Assistance Funding Allocations (Fiscal Year 2021)* and the *FY2021 Department of Conservation and Virginia Soil and Water Conservation District Grant Agreement for Cost-Share and Technical Assistance*.

Mr. Newton asked if there was an option to deal with projects completed in 2021 or if the action would only be for carry over projects.

Ms. Watlington responded that this option will only apply to projects that have not been paid. Others will need to rely on the tax credit option.

Chairman Arnason called for the roll call vote.

AYE: Arnason, Saacke Blunk, Mason, Wilson, Newton, Maybury, Ford, Albritton, O'Brien

NAY: None

PUBLIC COMMENT

Ms. Mason commented that because of the unprecedented amount of funding for 2022 that she would like to see DCR take additional efforts to address wetlands restoration.

There was no additional public comment.

NEXT MEETING

The next meeting of the Virginia Soil and Water Conservation Board will be May 20, 2021 via GoToMeeting.

ADJOURN

There was no further business and the meeting adjourned at 11:32 a.m.