

FINAL MINUTES
Oliver Hill Building
102 Governor Street, Room 220
Richmond, VA 23219
Thursday, December 12, 2019

The meeting of the Board of Agriculture and Consumer Services (Board) convened at approximately 9:08 a.m. on Thursday, December 12, 2019, at the Oliver Hill Building in Richmond, Virginia. President Barlow called the meeting to order. At the President's request, Mr. Kirby gave the invocation.

ROLL CALL

The Board Secretary called the roll:

PRESENT

O. Bryan Taliaferro, Jr.
Clifton A. Slade
Shelley Barlow
Cecil Shell
Margaret Ann Smith
L. Wayne Kirby
Kay Johnson Smith
John R. Marker
Richard Sellers
Neil Houff
Kevin J. Kordek
Lonnie Johnson

Dr. M. Ray McKinnie

CONGRESSIONAL DISTRICT

1st
3rd
4th
5th
6th
7th
8th
10th
11th
Pesticides – Commercial Agricultural
Pesticides – Commercial Structural
Representing Dr. Timothy D. Sands, President,
Virginia Tech
Representing Dr. Makola Abdullah, President,
Virginia State University

ABSENT

Donald Horsley
James S. Huffard, III

2nd
9th

STAFF PRESENT

Jewel Bronaugh, Commissioner, Virginia Department of Agriculture and Consumer Services
Kevin Schmidt, Secretary, Board of Agriculture and Consumer Services
Katherine Coates, Virginia Department of Agriculture and Consumer Services

APPROVAL OF MINUTES

Mr. Marker moved that the draft minutes of the meeting on July 23, 2019, be approved as distributed. Mr. Sellers seconded the motion, and it was passed by a unanimous vote.

REPORT FROM BOARD MEMBERS

Lonnie Johnson

Mr. Johnson reported that the Virginia Agricultural Experiment Station and Virginia Cooperative Extension (VCE) have made their largest-ever budget request to the Governor and the General Assembly this year. It was a bold ask of over \$11 million for each year of the biennium. Approximately half of the funds would be used to support increases in VCE agent salaries to help with retention and to assist with recruitment for the vacancies across the state at VCE offices and research centers. The remaining funds would be used to upgrade to more modern technology at the research centers to give staff the ability to do meaningful research for the Commonwealth.

Dr. M. Ray McKinnie

Dr. McKinnie reported that Virginia State University is preparing for its fall commencement, which will take place on December 14. The commencement speaker will be Harry Williams, the President and CEO of the Thurgood Marshall College Fund. Other university priorities include building construction on campus and putting in for matching funds for the College of Agriculture.

Richard Sellers

Mr. Sellers reported that he has been working on behalf of urban agriculture at the request of Commissioner Bronaugh. He contacted economic development staff with the Fairfax County Board of Supervisors after the recent election to discuss urban agriculture. He has not heard back yet, but when he and Ms. Smith spoke to them earlier in the year, they stated that they have several empty warehouses they are interested in utilizing for urban agriculture. He shared that Fairfax County recently amended its zoning ordinance to allow residents to grow gardens in their front yard, which was previously prohibited. As a result, there is an increasing number of county residents with gardens. He stated that there are 1.1 million residents in Fairfax County, and if 50,000 of them start gardening, that will result in additional agricultural inputs and potentially more produce for sale at local farmers' markets. He is looking forward to speaking with more officials in his district and coordinating meetings for Commissioner Bronaugh with those officials and with representatives of the Fairfax Food Council and the Fairfax County VCE agent.

John Marker

Mr. Marker reported that most of the corn and beans in his district have been harvested. The harvest was quicker than it was last year because the weather has been conducive to harvesting. The fruit harvest is complete for the year. Most of the farm markets have shut down for the year. His district has had many wet days but not a lot of rain, and they are still at a deficit. They have been feeding livestock in the area off and on for two months because of the impact of the lack of rain on pastures.

Kay Johnson Smith

Ms. Johnson Smith reported that there are two new Harris Teeter grocery stores in her area. There was concern about one of the Harris Teeters replacing a Food Star, which is a grocery store that focuses on Hispanic foods. She visited that Harris Teeter and was pleased to find that it still stocked many of the products people in the Hispanic community would want. She reported that she just returned from the Arizona Department of Agriculture Ag Roundtable, where she attended a consumer panel of young people who were asked where they get their information about food. Based on the answers of the participants, their number one source for information

about food and agriculture is social media, which can mean they are getting a lot of misinformation. The second source participants identified was farmers' markets, and they suggested that commercial producers go to farmers' markets to tell their stories in order to change young people's negative view of large agriculture. She announced that the National Association of State Departments of Agriculture will hold its annual policy meeting in Arlington on February 24 - 26. Finally, she handed out a save the date for her organization's (the Animal Agriculture Alliance) annual conference in May. The theme for this year's conference is Primed and Prepared.

L. Wayne Kirby

Mr. Kirby reported that the harvest is complete in his district. It was a mixed bag of yields. A period of 100-degree temperatures during the summer cut into the soybean and corn yields. Producers are in the midst of closing up, finishing up, and counting up and are planning to go again next year. He spoke to a fertilizer supplier who told him there is not much optimism in the industry after the two to three recent years of mediocre results. He concluded his report by saying they are just looking forward to something better in 2020.

Margaret Ann Smith

Ms. Smith reported that this summer was on the challenging side. It turned hot and dry in late July and June. On the cattle side, they saw producers dipping into their hay supplies much earlier than normal and marketing calves much earlier than normal. They are still seeing the consequences of that today. The cattle runs for the fall have been tremendous. Last week, their runs overwhelmed everyone in their industry on the cattle marketing side. Lynchburg had over 3,000 head of cattle on Monday. The sale started at 6 p.m. on Monday and finished at 10 a.m. on Tuesday.

She stated that there has been a lot of movement in the cattle market. The market has improved, and cattle prices are coming up a little bit. They are seeing the grass market starting for those out West. Cattle producers are scared about their hay supply because they had to start feeding early and are concerned they will not be able to find hay in the winter, especially if it ends up wet like last year. It has also been wet this fall. She reported that the processing plant in Holcomb, Kansas, is back online. It is bringing kill prices back up, which is feeding proceeds back to producers in Virginia. Their cash bid this week was \$119. They have not seen a cash bid that high on cattle in quite a while. There is the potential for huge optimism on the cattle side this spring.

Cecil Shell

Mr. Shell began his report by introducing himself to the Board. He stated the he raises tobacco, timber, grain, and vegetables in Lunenburg County. He reported that in his district, the season started out wet and ended up dry. Cattle farmers had lots of hay in the beginning but had to start feeding by the end of the summer. The grain crop was not as good as they expected it to be. The quality was not there for the tobacco, and the prices were not what they expected. He stated that it was a bad year but they are hoping to have a better one next year. He concluded his report by noting that many farmers in his area have begun growing industrial hemp.

Clifton Slade

Mr. Slade reported that he planted two and half acres of industrial hemp this season, harvested it, and it is now sitting in his barn with no interested buyers. That was not what he had expected, but there is a bottleneck at the processing facilities in Virginia. The farmers with more hemp

acreage are getting their crops processed first. It looks like he had a good yield, but, as a first time grower, he has nothing to compare it with. He reported that rain wreaked havoc on his organic vegetable crop. All the produce crops, tomatoes and strawberries especially, were hit hard with disease this year. He reported that he is still having deer problems but has managed to stop them by bringing in two dogs to guard his crop. He reported that he has never seen such a mixed bag of soybeans yields. The fields they thought were going to have good yields did not, but the fields with the shorter beans had better yields. He concluded by saying there was a decent corn yield, but the prices were bad.

O. Bryan Taliaferro

Mr. Taliaferro reported that the corn in his district was good to excellent. The test weight was very high. Some test weights were as high as 64, and the normal test rate is between 54 and 56, which is an increase in bulk density of 14 percent. That increase is reflected in the yield because each kernel weighs more. He stated that, generally, it was a good crop. Soybeans were a mixed bag. Some of the beans that were planted earlier managed to mature on the moisture in the soil. The rain during the July meeting in his area was the last rain they had until October, so it was extremely dry. Soybeans yields were average to poor. He commented that he is pleased they have at least one trade agreement in place with the North American Federal Trade Agreement, and he believes that Virginia agriculture will be better off because of it.

Neil Houff

Mr. Houff reported that Rockingham and Augusta counties saw some of the best yields they have ever seen for corn and soybeans. There continues to be concerns over the glyphosate issues that have moved from the West Coast to the East Coast. He stated that he hopes science will prevail and not perceived perceptions of misconduct. They have some new technology coming on board that will be very limited this year, including 2,4 - D type products that can be applied over-the-top on soybeans. It will be marketed under multiple brand names and has similar applications to dicamba products. Virginia has been fortunate to have managed dicamba well and has not had issues with off-target contamination.

He stated that there is continued concern that there are currently three herbicide products that require additional training beyond regular commercial or private applicator training. He expects that list to continue to grow. There is concern about the amount of additional training time for these products required of applicators and of individual farmers if they want to apply the product themselves. The additional training requirements have resulted in more farmers hiring commercial applicators. The training should be able to be incorporated into the established applicator training programs. Finally, Mr. Houff announced that the Virginia Crop Production Association will have its annual meeting in Richmond on January 21 - 23.

Kevin Kordek

Mr. Kordek began his report by welcoming Andrea Coron from the Virginia Pest Management Association (VPMA). He reported that, on the national level, there are environmental groups going after some important pesticide tools for mosquito and vector control on a very broad scale. There are some concerns that if legislation passes limiting the use of these pesticides, it could result in an increase of diseases spread by household pests like mosquitos and ticks.

VPMA just finished its master tech training courses for cockroaches and ants. The master tech program is a voluntary program where pest control companies send their technicians to gain university-level training on certain pests. This training is strictly voluntary and is not required for

VDACS certification. VPMA has been a national leader with these programs. VPMA also has a voluntary program for termite inspectors that it created 20 years ago. Homeowners know to expect a certain standard of conduct from VPMA certified applicators. This additional training is important because termite inspection forms are national documents that have to be submitted to mortgage companies as part of a home purchase in Virginia. The form recently changed, and there are companies that will submit the wrong form because they are not aware of the change because they did not go through the VPMA program. If the wrong forms are submitted, real estate transactions could be compromised. VPMA got the word out that everyone doing mosquito and bed bug control for public health needed to be certified for Category 8 (Public Health). VPMA conducted a prep course for the certification, and the pass rate was 71 percent, which was greater than usual.

He shared that there is a new disease called alpha-gal that is carried by the Lone Star tick. It was first identified in Australia, and there are now two reported cases in Virginia. The tick injects a complex carbohydrate that inhibits the body's ability to metabolize protein. He concluded his report by offering to connect Board members who are experiencing issues with deer with a group of retired first responders that kill and then harvest nuisance wildlife at the request of property owners. He expressed concern about gun laws affecting nuisance wildlife control, which may have unintended consequences that could impact public safety.

Shelly Barlow

President Barlow reported that they have completed their harvest and that it is now meeting season. She stated that it has been gratifying to meet the groups who support agriculture in Virginia and across the country. There are many smart and dedicated people supporting agriculture. She shared the reason for Mr. Horsley's absence from the Board meeting and that Secretary Schmidt recently added a Board roster with contact information to the available online Board materials. She expects the cotton harvest in her area to be one of the best ones they have ever seen, and they are thankful for a plentiful harvest. She thinks the Virginia averages will go up this year even though preliminary reports look low. The quality of the crop has been good, but prices are very troubling. They are hoping it turns around and that they get traction out of the North American Trade Agreement.

She noted that The Virginia Peanut Story, an hour-long program produced in her area about the Virginia peanut industry, was featured on public television last month and encouraged Board members to watch the program. She concluded by stating that it was a decent harvest overall in her district. Almost everyone is finished with harvest with the exception of a few who are harvesting bean and cotton. They are ready to wrap it up, take a break, and gear up for exciting things in 2020.

COMMISSIONER'S REPORT

Commissioner Bronaugh delivered her report to the Board. During the presentation of this report, she briefed the Board on personnel changes, recent 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.

UPDATE ON FARMER STRESS TASK FORCE

Commissioner Bronaugh presented the Board with an update on the activities of the Farmer Stress Task Force.

RECOGNITION OF A FORMER BOARD MEMBER

Commissioner Bronaugh presented a certificate to former Board member Rosalea Potter and thanked her for her outstanding work on the Board.

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

President Barlow called on David Gianino, Program Manager of the Office of Plant Industry Services. Mr. Gianino presented the Board with a brief overview of the final action to amend 2 VAC 5-317.

Following Mr. Gianino's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-317, Regulations for the Enforcement of the Noxious Weeds Law, as presented by staff and that the Board authorize staff to take any and all steps necessary to have this regulation become a final regulation of the Board. Mr. Shell seconded the motion, and it was carried by a unanimous vote of the Board.

FINAL STAGE – 2 VAC 5-320 (REGULATIONS FOR THE ENFORCEMENT OF THE ENDANGERED PLANT AND INSECT SPECIES ACT)

President Barlow called on Keith Tignor, Endangered Species Coordinator of the Office of Plant Industry Services. Mr. Tignor presented the Board with a brief overview of the action to amend 2 VAC 5-320.

Following Mr. Tignor's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-320, Regulations for the Enforcement of the Endangered Plant and Insect Species Act, as presented by staff and that the Board authorize staff to take any and all steps necessary to have this regulation become a final regulation of the Board. Mr. Marker seconded the motion, and it was carried by a unanimous vote of the Board.

FINAL EXEMPT ACTION TO AMEND 2 VAC 5-600 (REGULATIONS PERTAINING TO FOOD FOR HUMAN CONSUMPTION)

President Barlow called on Ryan Davis, Program Manager, Office of Dairy and Foods. Mr. Davis presented the Board with a brief overview of the final exempt action to amend 2 VAC 5-600.

Following Mr. Davis's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-600, Regulations Pertaining to Food for Human Consumption, as presented by staff and that the Board authorize staff to take any and all steps necessary to amend this regulation through an exempt regulatory action as authorized by Section 3.2-5121 of the Virginia Food and Drink Law and to have this regulation become a final regulation of the Board. Mr. Marker seconded the motion, and it was carried by a unanimous vote of the Board.

FINAL EXEMPT ACTION TO AMEND 2 VAC 5-490 (REGULATIONS GOVERNING GRADE "A" MILK)

President Barlow called again on Ryan Davis. Mr. Davis presented the Board with a brief overview of the final exempt action to amend 2 VAC 5-490 and answered Board member questions.

Following Mr. Davis's presentation and discussion by the Board, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-490, Regulations Governing Grade "A" Milk, as presented by staff and that the Board authorize staff to take any and all steps necessary to have this regulation become a final regulation of the Board through an exempt regulatory action as authorized by Section 3.2-5206 of the Virginia Milk, Milk Products, and Dairies Law. Mr. Shell seconded the motion, and it was carried by a unanimous vote of the Board.

PROPOSED FAST-TRACK ACTION TO AMEND 2 VAC 5-501 (REGULATIONS GOVERNING THE COOLING, STORING, SAMPLING AND TRANSPORTING OF MILK)

President Barlow called again on Ryan Davis. Mr. Davis presented the Board with a brief overview of the proposed fast-track action to amend 2 VAC 5-501.

Following Mr. Davis's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt 2 VAC 5-501, Regulations Governing the Cooling, Storing, Sampling and Transporting of Milk, as presented by staff today and that the Board authorize staff to take any and all steps necessary to amend this regulation through a fast-track regulatory action. Dr. McKinnie seconded the motion, and it was carried by a unanimous vote of the Board.

MEETING RECESS

At approximately 10:38 a.m., President Barlow called for a recess. The meeting reconvened at approximately 10:58 a.m.

UPDATE ON VIRGINIA LIVESTOCK AND POULTRY LAW AND RELATED REGULATIONS CIVIL PENALTY MATRIX

President Barlow called on Dr. Carolyn Bissett, Program Manager of the Office of Veterinary Services. Dr. Bissett provided a brief overview to the Board on the proposed revisions to the Virginia Livestock and Poultry Law and Related Regulations Civil Penalty Matrix.

Following Dr. Bissett's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt the proposed revisions to the Virginia Livestock and Poultry Law and Related Regulations Civil Penalty Matrix, as presented by staff and authorize staff to take any and all steps necessary to publish and receive public comment on these proposed revisions. Mr. Shell seconded the motion, and it was carried by a unanimous vote of the Board.

UPDATE ON OFFICE OF ANIMAL CARE AND EMERGENCY RESPONSE CIVIL PENALTY MATRIX

President Barlow called again on Dr. Bissett to provide a brief overview to the Board on the proposed revisions to the Office of Animal Care and Emergency Response Civil Penalty Matrix.

Following Dr. Bissett's presentation, Mr. Sellers moved that the Board of Agriculture and Consumer Services adopt the proposed revisions to the Office of Animal Care and Emergency Response Civil Penalty Matrix as presented by staff and authorize staff to take any and all steps necessary to publish and receive public comment on these proposed revisions. Mr. Marker seconded the motion, and it was carried by a unanimous vote of the Board.

BOARD NOTIFICATION OF EXPANDED FIRE ANT QUARANTINE

President Barlow called on David Gianino, Program Manager, Office of Plant Industry Services. Mr. Gianino briefed the Board on the Expanded Fire Ant Quarantine and responded to Board member questions.

PESTICIDE CONTROL FUND UPDATE

President Barlow called on Larry Nichols, Director, Division of Consumer Protection. Mr. Nichols provided an update on the Pesticide Control Fund and responded to Board member questions.

REQUEST FOR AUTHORIZATION TO RELEASE RECORDS REQUIRED TO BE HELD IN CONFIDENCE BY VA. CODE § 3.2-103(4)

President Barlow called on Liza Fleeson Trossbach, Program Manager of the Office of Pesticide Services; and Erin Williams, Senior Policy Analyst with the Office of Policy, Planning, and Research. Ms. Trossbach and Ms. Williams presented an overview of the Request for Authorization to Release Records Required to be Held in Confidence by Va. Code § 3.2-103(4) and responded to Board member questions.

NEW BUSINESS

Kevin Schmidt announced that Virginia State Statistician Herman Ellison provided copies of press releases about two new National Agricultural Statistics Service surveys, which were included in Board member binders.

There was no other new business introduced.

FUTURE BOARD MEETINGS

President Barlow announced that in 2020, the Board is scheduled to meet in Richmond on March 19 and May 21. The December meeting is tentatively scheduled for December 10 in Richmond, but President Barlow indicated she may have a conflict. She also announced that she will host the summer meeting and tour in Southeast Virginia and that she is interested in coordinating the Board's meeting with the 2020 National Association of County Agricultural Agents Annual Meeting and Professional Improvement Conference to be held July 19-24, 2020, in Virginia Beach.

PUBLIC COMMENT PERIOD

There was no public comment.

ADJOURNMENT

There being no further business, Mr. Kirby made a motion for the Board to adjourn. Mr. Sellers seconded the motion, and it was carried by a unanimous vote of the Board. The Board adjourned at approximately 12:26 p.m.

Respectfully submitted,


Shelley Barlow
Board President


Kevin Schmidt
Board Secretary