

Minutes

November 16, 2016

N. C. Board of Agriculture

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Maurice K. Berry, Jr.

Mark Peters

Doug Boyd

Ben Shelton

Tommy Burlison

Bob Sutter

John William Carter, III

Jeffrey Turner

Anne Faircloth

Faylene Whitaker

Jim Lambeth

Steve Troxler, Chairman

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## Minutes

November 16, 2016

N.C. Board of Agriculture

The November 16, 2016 Board of Agriculture meeting was held in Wilmington, N.C. at the North Carolina Ports. Commissioner of Agriculture, Steve Troxler, called the meeting to order at 2:08 p.m. and read the Ethics Reminder. A roll call by Chrissy Waggett established there was a quorum. Board members present were: Maurice Berry, Doug Boyd, Billy Carter, Anne Faircloth, Jim Lambeth, Ben Shelton, and Faylene Whitaker. Bob Sutter joined via telephone.

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The first order of business was the approval of minutes from the July 26<sup>th</sup> and September 6<sup>th</sup> Board meetings.

Maurice Berry made the MOTION to approve both sets of minutes as provided. The MOTION was seconded by Doug Boyd, and there was no further discussion or questions. The MOTION passed unanimously.

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Commissioner Troxler thanked the North Carolina Ports for hosting the Board of Agriculture and called upon Greg Fennell with the N.C. Ports. Mr. Fennell addressed the Board with a power point presentation on the Ports and a study that showed the economic impact the Ports have on the state. The study showed that 76,000 jobs are directly or indirectly related to the Ports and they contribute \$14 billion to the state. The cold storage facility at the Ports, which is important to agriculture, is a public-private investment.

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The next item of business was a referendum request by the North Carolina Tomato Growers Association. Tina Hlabse presented the request which seeks authorization for the Association to conduct a referendum on the question of whether or not tomato growers shall levy upon themselves an assessment of \$20.00 per acre, per crop year, on all commercial tomato acreage in North Carolina. The term of the assessment is 6 years, starting with the 2017 crop year. The funds collected would be used for research, education, and in an advertising program to help increase market development.

A MOTION was made by Billy Carter to accept the referendum request as presented. The MOTION was seconded by Doug Boyd. There were no further questions or discussion on the matter and the MOTION passed by a unanimous vote.

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Commissioner Troxler then called upon the representatives of the American Dairy Association of North Carolina, doing business as SUDIA, to present their referendum request to the Board. They are seeking to conduct a referendum among North Carolina dairy farmers.

Currently, there is a national dairy checkoff assessment in place, under the Dairy and Tobacco Stabilization Act of 1983 and the Dairy Promotion and Research Order, with oversight by the U.S. Department of Agriculture. This is a mandatory 15 cents per hundredweight (cwt) of milk assessment of all dairy producers in the U.S. Producers are required to send 5 cents of the 15 cents to the National Dairy Promotion and Research Board, and can opt to send the 10 cents to any USDA Qualified Program, including the national program.

The North Carolina law mandates that the 10 cents be sent to the duly certified commission, which is the American Dairy Association of North Carolina, for milk and dairy promotion and education programs in our state. The vote is to be on the question of keeping the 10 cents for programs within the State of North Carolina or sending it to the national program instead. The present authority expires on April 30, 2018. The vote would be held in May of 2017.

The MOTION to accept the referendum request as presented was made by Jim Lambeth, with a second by Anne Faircloth. There was a question surrounding what some in the dairy business might see as controversy by having to send the assessment to SUDIA, and not another organization in-state.

After brief discussion, the MOTION carried by unanimous vote.



Colleen Hudak-Wise, the Director of the Agronomics Division, was called upon to present the request to approve peak season dates for agronomics soil testing. The division is requesting to delay the start of the Peak Season Date to December 1, 2017, the latest start date authorized by statute, giving farmers three days after Thanksgiving to drop off samples for free. The gates will lock the Wednesday before Thanksgiving and remain locked through the holiday to control drop-off and protect the samples from the elements.

A MOTION to approve the peak season dates as presented was made by Maurice Berry. There was a second by Faylene Whitaker, and no further questions or discussion. The MOTION carried by a unanimous vote.



Ms. Hudak-Wise also asked the Board to start the rule-making process in order to amend Rule 02 NCAC 37 .0202 Plant Analysis Service. The amendment would add new services and increase the fee.

Currently, the lab offers a heavy metals analysis for waste samples for a fee of \$10. This analysis consists of Nickel, Cadmium and Lead. Ms. Hudak-Wise would like to add Arsenic, Selenium and Chromium to the list of heavy metals tested and increase the fee to \$20.

Although this service will be primarily used by clients submitting industrial by-products and composting feedstocks, it is suggested to strike the waste designation so that the Division can provide this service to university researchers who would like to have plant, solution and media samples as well.

In addition, it is suggested to strike the plant designation for molybdenum so that the Division can offer this service for other sample types. Several clients have expressed an interest in having molybdenum analysis offered for sample types.

The last change is to add a test for bulk density for compost and media samples and charge a fee of \$10 for this service. Bulk density is regularly requested by compost producers. In addition, nursery growers who sell plants across the quarantine line for fire ants need to know the bulk density of potting media. Potting media produced or used in the quarantine areas must be treated with pesticides that control fire ants before it is moved outside the quarantine area. The bulk density of the potting media is needed to determine the pesticide application rate.

It was noted by Commissioner Troxler that the money collected goes back to the Agronomics lab. Ms. Hudak-Wise let the Board know that we would notify crop consultants, place the change on the website, and put the changes in the newsletter, in response to a question from Bob Sutter.

Doug Boyd made a MOTION to approve the rule-making process in order to make the changes to 02 NCAC 37 .0202 as presented. The MOTION was seconded by Faylene Whitaker and there was no discussion. It passed unanimously.

There was a brief discussion on the water testing requirements under the Food Safety Modernization Act, the cost of the testing, and whether or not the Department would be able to do the testing. This is something that the Department and NASDA are currently working on.

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Commissioner Troxler then called on Chrissy Waggett to go over the next order of business: the final agency determinations of several rule reports. Ms. Waggett explained that the reports and the initial classifications approved at the July 26, 2016 meeting, have been through the required 60-day comment period. No comments were received and none of the classifications changed from the last meeting. The Board will need to give final approval to the final agency determinations. Once approved, they will be turned into the Rules Review Commission who will review them at their January 10, 2017 meeting.

The following rule reports were presented with no changes: 02 NCAC 48C: Seeds; 02 NCAC 48D: Liming Materials and Landplaster; 02 NCAC 52D: Meat and Poultry Inspection; 02 NCAC 52B: Animal Disease; 02 NCAC 52C: Control of Livestock Diseases: Miscellaneous Provisions; 02 NCAC 52E: Marketing of Livestock; 02 NCAC 52F: Pen-Raised Quail; 02 NCAC 52G: Biologics; 02 NCAC 52H: Garbage Fed Swine; and 02 NCAC 52I: Rendering Plants.

Department employees Vernon Cox, Alan Wade, and Dr. Doug Meckes were all available via phone to answer questions.

The MOTION to accept all of the reports and their classifications was made by Faylene Whitaker and seconded by Doug Boyd. After no questions or discussion, the MOTION passed unanimously.



Commissioner Troxler then called on Chrissy Waggett to talk about the re-adoption of rules. Ms. Waggett explained that the rules coming before the Board were being re-adopted as they were classified in an earlier report as being “necessary with substantive public interest.” The first set of rules are under the Food and Drug Protection Division’s authority. These rules were presented to the Board in July and have been through the comment period. No Comments were received, and this is the final adoption by the Board under this process. Audrey Pilkington was available via phone in case there were any questions. There are 61 rules being considered in 02 NCAC 09C, E, G, H, J, K, and O. Some of the rules are being readopted without any changes while some are being updated to correct and add up to date references. Some rule language is being changed just to make it easier to read.

Billy Carter made the MOTION to adopt the rules as presented. The MOTION was seconded by Anne Faircloth and passed unanimously after no further questions or discussion.



Ms. Waggett then presented 8 rules being re-adopted under the Standards Division in 02 NCAC 38. The 8 rules being re-adopted deal with Adoption by Reference, Weighing and Measuring, Retail Motor Fuel Dispensers/Half-Pricing, and Price-Posting/Cash Discounts for Retail Motor Fuel Sales. Some rules are not being changed while some are being updated to reflect correct references. These rules have been through the comment period. One comment, from the North Carolina Propane Gas Association was received for Rule 02 NCAC 38 .0701 Adoption by Reference. Steve Benjamin, Director of the Standards Division, explained via phone that the Division agrees with the comment submitted and would like to make the suggested change. The Board members were provided a copy of the comment and suggested amendment.

A MOTION was made to adopt 02 NCAC 38 .0701 with the changes as presented by Steve Benjamin and requested by the North Carolina Propane Gas Association. The MOTION was seconded by Doug Boyd and there was no further discussion. The MOTION passed by unanimous vote.

The MOTION to adopt the other 7 rules as presented was made by Doug Boyd and seconded by Maurice Berry. After no further questions or discussion, the MOTION passed unanimously.



Commissioner Troxler then gave a brief update on Hurricane Matthew relief efforts. Commissioner Troxler discussed the movement of carbon source to assist with the deceased poultry, an expensive task that was financed through FEMA. The Department also housed

people displaced due to flooding the Lumberton Horse Facility. The Commissioner and his staff also worked with Senator Tillis' office and the Governor's office on a request for federal assistance.

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David Smith, Chief Deputy Commissioner, gave an update on the current wild fire situation in Western North Carolina. The Board was provided maps showing the current fires. The Party Rock fire is currently the second priority in the entire nation. The North Carolina Forest Service is fighting the wildfires while local fire departments are protecting structures. The Commissioner and some legislators visited the fires last week and we are currently working on a way to feed the firefighters over the Thanksgiving holiday.

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Joy Hicks, the Legislative Liaison for the Department, gave a brief overview of the recent election and a quick preview of the upcoming session. There are rumors of a special session being called in December to address disaster assistance, but the Legislature will officially return for business on January 11<sup>th</sup>.

David Smith then noted that we had a successful N.C. State Fair in October, even though we were in the middle of Hurricane Matthew relief efforts. This was the 2<sup>nd</sup> highest State Fair, improvements were made at Gate 8 and Heritage Circle, and we did well on ticket sales for the State Fair Flyer.

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There was a comment from Ben Shelton on labor and immigration and H2A. Dr. Shelton would like for North Carolina to be a leader in immigration policy.

There being no further business to discuss, Doug Boyd made a MOTION to adjourn the meeting. The MOTION, seconded by Maurice Berry, passed unanimously. The meeting of the Board of Agriculture adjourned at 3:58 p.m.

Recorded and Prepared by:

Chrissy Waggett

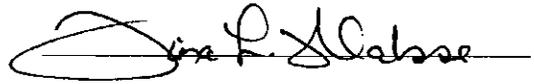
Adopted by the Board this 15th day  
of February, 2017.



Steven W. Troxler

Commissioner of Agriculture

Chairman



Tina Hlabse

Secretary