

# Virginia Tobacco Indemnification and Community Revitalization Commission

Meeting Minutes  
November 23, 1999  
Stratford Inn Conference Center  
Danville, Virginia

Before calling the meeting to order Carlton Courtier (Commissioner of the Virginia Department of Agriculture and Consumer Services), announced the (1) hour delay due to hampered travel plans (Governor Gilmore was fogged in at Richmond and Southwest VA. delegation fogged in at Southwest, VA). He recognized legal counsel from the Attorney General's office in attendance and also alerted that the meeting would move slowly due to the attendance of media. Mr. Courtier enlightened the Commission by providing some background on the tobacco settlement. Two (2) entities are involved in monies coming to Virginia. All monies transcend from the Master Settlement Agreement which involved forty-six (46) different states' Attorneys General. Four (4) other states settled separately between tobacco companies' legal counsel and states. There was a side agreement involving fourteen (14) of the tobacco growing states that was not part of the Master Agreement. This side agreement involved additional monies to flow to growers and quota holders based on effects of the Master Settlement such as increased cigarette prices and a subsequent reduction in demand for American tobacco. This came to Virginia with two (2) Boards. The Master Settlement Agreement Board, (Phase 1) and a side agreement (Phase 2). The convening of this Commission today is under the auspices of phase 1 which is a public body with appointees by the legislature and the Governor. The side agreement (Phase 2) is a private board as selected by the agreement between the Attorney General and the tobacco companies. The phase 2 Board (the private Board) has been meeting for some time now in order to get money that is already in place to the growers. This meeting today is the first meeting of the Commission under the auspices of the Master Settlement Agreement (Phase 1).

## **MEETING CALLED TO ORDER**

Mr. Courtier then called the meeting to order. He announced the official name of the Commission as the *Virginia Tobacco Indemnification and Community Revitalization Commission* and introduced Commission members as he called the roll.

### **Members present:**

*Six (6) members appointed by the Speaker of the House:*

Delegate Ted Bennett  
Delegate Kathy Byron  
Delegate Whitt Clement  
Delegate Allen Dudley

Delegate Joe Johnson (by teleconference)  
Delegate Terry Kilgore (by teleconference)

*Four (4) members appointed by the Privileges and Elections Committee of the Senate:*

Senator Charles Hawkins  
Senator Phillip Puckett (by teleconference)  
Senator William Wampler  
Senator Richard Holland (**not present**)

*Secretary of Commerce and Trade designee:*

Josh Leif (by teleconference)

*Secretary of Finance and Trade designee:*

Mr. Forbes

*Commissioner of Agriculture and Consumer Affairs:*

Carlton Courtier

*Flu-cured tobacco producers:*

C. D. Bryant  
Tom West

*Flu-cured producer appointed with no nomination requirement:*

Don Anderson

*Active Burley Tobacco Producers:*

Fred Fields (by teleconference)

*Burley producer with no nomination requirement:*

William Osborne  
John Stallard (by teleconference)

*Virginia Farm Bureau member:*

Joseph Williams

*Citizens appointed from list provided by the General Assembly:*

H. Ronnie Montgomery (by teleconference)  
John Boyd  
Delegate Frank Ruff

*Citizens appointed by Governor with no nomination requirements:*

Tom Arthur  
Isaih Hopkins  
Lang Hurley  
Don Lawson  
Paul Grinstead  
J.T. Taylor (**not present**)  
Cindy Thomas  
Gary Walker

**29 Member present**

**2 Members not present:**

Senator Richard Holland

J.T. Taylor

Mr. Courtier proceeded, speaking on behalf of the Governor and thanking Commission Members for taking the time from schedule to be here. “The Governor has worked hard on behalf of tobacco growers, warehouse workers, warehousemen and tobacco community in general.” Mr. Courtier announced that the Governor was going to be here today to open the meeting and introduce the Executive Director, however, chain of events would not allow. Mr. Courtier introduced Carthan Currin, the new Executive Director.

**GOVERNOR’S REMARKS AND ELECTIONS OF CHAIRMAN AND VICE CHAIRMAN**

Mr. Currin expressed his deep appreciation to the Governor for his appointment to the Commission and looks forward to working with Commissioners and serving the Commonwealth, especially citizens of Southwest and Southside, VA. Mr. Currin then read Governor Gilmore’s comments to the Commission. (comments attached). After reading the Governor’s remarks, **Mr. Currin asked for nominations for Chairman of the Commission.**

**Delegate Whitt Clement nominated Senator Hawkins for Chairman of the Commission.**

**Nomination seconded by Senator Wampler.**

**There were no other nominations for Chairman.**

**Frank Ferguson called for the vote.**

**Southwest VA. Delegation voice vote by teleconference:**

**Senator Wampler  
Delegate Johnson  
Delegate Kilgore  
Senator Puckett  
Mr. Fields  
Mr. Stallard  
Mr. Montgomery**

**Those present in Danville:**

**Delegate Bennett  
Delegate Byron  
Delegate Clement  
Delegate Dudley  
Mr. Bryant  
Mr. West**

**Mr. Anderson**  
**Mr. Osborne**  
**Mr. Williams**  
**Mr. Boyd**  
**Delegate Ruff**  
**Mr. Arthur**  
**Mr. Hopkins**  
**Mr. Hurley**  
**Mr. Lawson**  
**Mr. Grinstead**  
**Ms. Thomas**  
**Mr. Walker**

**Voice vote by teleconference in Richmond, VA.**

**Josh Leif (Secretary of Commerce and Trade designee)**  
**Mr. Forbes (Secretary of Finance designee)**

---

**27 yes**  
**0 no**  
**2 abstentions (Senator Hawkins)**  
**(Mr. Courtier)**

**Senator Hawkins was elected Chairman unanimously.**

Mr. Currin then welcomed Senator Hawkins as the new Chairman.  
**The New Chair then asked for nominations for Vice-Chair.**

**Senator Wampler nominated Delegate Terry Kilgore for Vice Chair.**  
**Senator Hawkins seconded the nomination.**  
**Senator Hawkins then called for a vote.**

**Southwest Virginia delegation vote by teleconference:**

**Senator Wampler**  
**Delegate Johnson**  
**Senator Puckett**  
**Fred Fields**  
**Mr. Stallard**  
**Mr. Montgomery**

**Those present in Danville voting:**

**Delegate Bennet**  
**Delegate Byron**

**Delegate Clement**  
**Delegate Dudley**  
**Senator Hawkins**  
**Mr. Bryant**  
**Mr. West**  
**Mr. Anderson**  
**Mr. Williams**  
**Mr. Osborne**  
**Mr. Boyd**  
**Delegate Ruff**  
**Mr. Arthur**  
**Mr. Hopkins**  
**Mr. Hurley**  
**Mr. Lawson**  
**Mr. Grinstead**  
**Ms. Thomas**  
**Mr. Walker**

**Vote by teleconference in Richmond, VA.:**

**Josh Leif**  
**Mr. Forbes**

---

**27 yes**  
**0 no**  
**2 abstention (Kilgore)**  
**(Courtier)**

**Delegate Kilgore was elected unanimously Vice-Chairman of the Commission.**

#### **LEGISLATION ESTABLISHING THE COMMISSION AND THE COMMISSION'S PURPOSE**

Frank Ferguson congratulated and extended best wishes for the Commission's hard work on behalf of Attorney General Mark Early. He recognized three other members from the Attorney General's office that will be working with the Commission. Garland Bigley and Daniel Rogers who were present in the audience, and not present, Ashley Taylor. Mr. Ferguson then explained why the Commission was established and briefed the Commission on the Code and legislation establishing Commission. (Tab 2 in Commission notebook.) Mr. Ferguson discussed the three different tobacco commissions and differences of each. Legislation sets up series of definitions. Mr. Ferguson suggests that this Commission will be working closely with decisions of Certification Board. The Certification Board is a private entity created for the purpose of determining who in the Commonwealth among farmers will receive money and how

much from the National Tobacco Trust. Most recent meeting of the Board reported that the Commonwealth would be allocated over \$25 million.

The process for identifying recipients is well under way. It is anticipated that trust money checks will be cut on December 30, 1999, if all stays on track. It is further anticipated that money from Master Settlement Agreement which resulted in approximately \$4.1 billion will come to the Commonwealth over the next 25 years. One half of which is overseen by this Commission - if law does not change.

Mr. Ferguson discussed the history of the Master Settlement. In June 1997 a proposed settlement was announced led by Mississippi's Attorney General. This settlement died in Congress. A number of Attorneys General wanted to continue the effort to reach a resolution. The resolution resulted in the Master Settlement Agreement, which was signed in November, 1998. The Master Settlement Agreement had a number of provisions including dealing with advertisements targeting youth, restrictions on sponsoring sporting events and lobbying restrictions, creation of resources for education and reduction of the use of tobacco products. The total amount of the Master Settlement is in excess of \$200 billion. Virginia is to receive a percentage of this (approx. 4.1 billion). The payments are targeted several different ways. In order for any state to receive money under the Master Settlement, it is necessary for that state to reach "state specific finality". Any legal challenges must be settled. It has been established that Virginia reached "state specific finality" recently. A second step necessary to receive money is "final approval". This has been met as well. First payment to Virginia has been in escrow since January 1, 1999.) This is approx. \$49 million. The next payment will be approximately \$50 million in January, 2000. An additional \$50 million is targeted for Virginia in each of the next 3 years (subject to adjustments) as part of initial payment. The first payment considered the "annual payment" will be on April 15, 2000, and subject to adjustments. These payments will be paid every year "forever". This payment and annual payments thereafter are subject to adjustments. Some adjustments include a volume adjustment based on cigarette shipments, inflation and non-participating manufacturer adjustment. The April 15<sup>th</sup> payment is estimated to be \$90 million. Between now and latter part of April, \$185 - \$190 million is estimated to come to the Commonwealth. Another stream of money begins in 2007. This is anticipated to be \$6.5 million a year for 10 years.

#### **ACTIVITIES OF THE VIRGINIA TOBACCO TRUST CERTIFICATION BOARD, INC.**

Carlton Courter briefed the Commission on the functions of the Virginia Tobacco Trust Certification Board (tab 5 in Commission notebook). This Board is a private corporation for the purpose of certifying annually to the Trustee (Chase Manhattan Bank) the names of qualified recipients. All payments flow directly from the Trustee to the qualified tobacco producers or quota holders. None of this money comes to the Virginia treasury. There are 14 members made up by auspices of the agreement. The anticipated amount of \$339 million to be paid out over 12 years is based upon tobacco quota held by

Virginia farmers in 1998. Based on national production Virginia's share is 6.58%. The Certification Board will provide to Chase Manhattan a list of Virginia recipients to be paid directly by Chase Manhattan to be dated December 30, 1999. The Board is represented by a private law firm (McGuire, Woods, Battle, Boothe.)

Stan Duffer then provided further elaboration on the Certification Board. Mr. Duffer and McGuire, Woods, Battle and Boothe have traveled extensively throughout Virginia visiting with tobacco producers and explaining the process. The Certification Board met on August 17, 1999, to develop criteria, the application process and data base on farm operators. There are 17,500 farm operators in the State of Virginia. The database came from FSA records. Applications were sent to producers on October 27, 28 and 29. Also, on October 27, the Certification Board had the first of a series of 14 meetings throughout the flu-cured and burly areas which were very well attended. To this date, Chase Manhattan has received 10,900 applications. Applications are still flowing in. There is a lot to be done by December 30, 1999. The Board will meet again early in December to certify data. There will be a second round of payments to those that sent applications in late or who may have had difficulty with paperwork or certification. The Board will be meeting early next year to make decisions effecting the Board.

Chairman Hawkins then asked that during lunch the Commissioners think about breaking up into committees by regions. Flu-cured regions/burley regions. "Due to the tremendous job ahead and the complexity of it."

\*\*\*\*\*

After lunch break, Chairman Hawkins reconvened the meeting. The Chair suggested to the Commission that they break up into groups to take a regional approach on the economic piece. This way the Commission can look into the best way to focus on the legislation and come up with recommendations very rapidly on the "best way to invest these monies." The problems are different by region and the Chair would like to make some appointments representative of the various areas. The agriculture piece can be concentrated on the quickest due to the understanding of the problem and there are some benchmarks already in place. The Chair suggested an Executive Committee made up by region to cut through some of the problems the Commission may face on a day to day basis. "Recommendations can be made as we talk through this or any other way to make it an easier process". Because of the size of the Commission, the Chair suggests that the Commission not "bog itself down" with debates of personalities, debates on regions or a lack of direction. This will keep the Commission focused on "what we are all about". He would like Commissioners to send him recommendations on how an Executive Committee should be made up and how it should reflect the overall impact of this body and the appointments that should be made on the various regions. Chairman Hawkins said, "it is awfully important for us to understand that the mission is one of the people we represent, offsetting the tremendous loss particularly in the agricultural community as well

as some of the manufacturing units of our communities way of life.” He would like Commissioners to call or write with any suggestions or recommendations to get things moving as rapidly as possible.

Chairman  
Senator Charles Hawkins  
Phone ( 804) 432-9672  
Address – Box 285  
Chatham VA.

Executive Director  
Carthan Currin’s 804-786-2272  
e-mail- [ccurrin@getd.state.va.us](mailto:ccurrin@getd.state.va.us)

Commissioner Willams made a suggestion that names of all Commissioners and complete addresses and phone numbers be sent out as soon as possible. Mr. Currin will follow up.

Frank Ferguson  
Attorney General’s Office  
(804) 786-2436  
[fferguson@oag.state.va.us](mailto:fferguson@oag.state.va.us)

### **THE VIRGINIA FREEDOM OF INFORMATION ACT**

Frank Ferguson briefed the Commissioners on the Virginia Freedom of Information Act (FOIA). The Code requires Commissioners to become familiar with and provided with a copy of the (FOIA). (Tab 7 in Commission Notebook). This Commission is a public body and therefore subject to the requirements of the FOIA. Any documents created by this Commission as part of its conduct of public business will be accessible to the public. This includes minutes of the meetings. There are exceptions that deal with personnel, legal, proprietary or security, i.e., trade secrets or related information. Also, meetings are open to the public and live. Electronic meetings are allowed only under unforeseen circumstances and with a live forum present. Closed sessions or executive meetings are allowed for specified reasons in the Code. When in Executive Session meeting, only discussion that may take place are discussions on subjects the public was advised were going to be discussed. This is to be affirmed after the Executive Session adjourns. The general rule is, when more than three are gathered together to discuss public business. A planned meeting requires a three-(3) day notice to the public. Electronic meetings require a thirty (30) day notice.

### **CONFLICT OF INTEREST ACT**

Frank Ferguson briefed the Commissioners regarding the Conflict of Interest Act. This applies to financial aspects and/or when money involved. Any business with this Commission or any other state agency is subject to the *Code* if it involves money or has a financial aspect to it. Also, there are strict guidelines and procedures to follow in the purchasing of goods and/or services pertaining to the Commission.

### **EXPENSES AND REIMBURSEMENTS**

The Executive Director suggested that the Commission adopt State guidelines and procedures for expenses and reimbursements. (Forms are in the back of Commission notebook.) Carlton Courtier suggested the commission adopt guidelines and procedures and vote at future meeting when money becomes available for expenses. Commissioners should keep track of all expenses for reimbursement when money available. This includes mileage associated with the Commission. Commissioners may send expenses to Carthan Currin for reimbursement.

### **Closing remarks from the Chairman**

Chairman Hawkins reminded the Commissioners of this Commission's Charge. This Commission's charge is for the tobacco communities and farming communities as a whole. The other pieces of tobacco legislation dealing with health care, transportation, etc. is not the charge or on the agenda of this commission.

### **Closing Discussion and Remarks from Executive Director**

Mr. Currin thanked Commissioner of the Department of Agriculture's staff for planning and preparing the meeting. After consulting with Chairman Hawkins, the next meeting is planned for January in Richmond, VA. This is for the convenience of Legislators who will already be in Richmond for Legislative Session. Commissioner Williams asked about dividing into groups and in the interest of time would like to meet before January. **Chairman Hawkins then appointed Delegate Frank Ruff as the Chair of the Agriculture part of the Commission and Delegate Whit Clement as Chair of the economic part** so as to have something to build upon. The Co-Chairs may call meetings aside as long as public and press notified appropriately. Representative from Attorney General's Office who was seated in the audience asked about the by-laws of the Commission. Chairman Hawkins commented that he has not seen the by-laws. The representative then commented that she knows of no rule that prevents the Co-Chairs from calling a meeting aside, as long as public and media are notified appropriately.

### **Public comment period**

Mr. Kent Hudson of Kent Hudson Bulk Curing, Inc. in Buffalo Jct., VA. spoke to the Commission about his business. He commented that the Commission reminds him of David and Goliath in that "you have a giant to tackle". In 1997 he sold in excess of 100 barns, harvesters, and other tobacco equipment. In 1999 he sold one (1) new barn and one(1) used barn that he lost a thousand dollars on to get rid of it. He has figured this to be a 98% loss of business. He hopes that in the workings of the Commission that the Commission will take into consideration equipment dealers and fertilizer dealers in some fashion.

**Other Business**

One Commissioner inquired as to where the Executive Director's office and staff offices would be located. Mr. Currin commented that this was to be determined. He further stated he had some thoughts on this however, he would address this at a later date. Senator Hawkins commented that he believed the offices should be closer to the areas affected.

Senator Wampler via teleconference and for the record, reported that the Abington group met in room 235 in Higher Education Center with seven (7) members of the Commission present. A copy of the agenda was properly posted and media notified. There were two (2) members of the media present in Abingdon. There were no members of the public in attendance.

Meeting adjourned.

Submitted by  
Donna C. Shelhorse  
(804) 786-2308  
(804) 784-1541  
**November 25, 1999**