

**MINUTES OF THE 360th COMMISSION MEETING
TEXAS ANIMAL HEALTH COMMISSION
August 1, 2006**

Item 1 - Welcome and call to order by Chairman Traylor

The Texas Animal Health Commission Meeting was called to order by Chairman Richard Traylor at 9:05 a.m. in the Commissioners' Conference Room at Texas Animal Health Commission.

All Commissioners were present. Chairman Traylor welcomed our new appointments – Dr. Mike Vickers, Dr. Tommy Kezar, Mr. Ernie Morales, and reappointment Mrs. Reta Dyess.

Item 2 - Approval of Minutes

A motion to approve the minutes of the 359th Commission Meeting held on May 4, 2006 was made by Commissioner Dyess and seconded by Commissioner Simmons. The motion carried unanimously.

Item 3 – Report of Executive Director and Approval of Actions for the Period 5/4/06 through 7/31/06

Dr. Hillman welcomed the new commissioners on behalf of the staff of Texas Animal Health Commission. Dr. Hillman presented a report of significant activities and issues that occurred from May 4, 2006 through July 31, 2006.

Significant Activities included:

Animal Identification

- USDA continues to implement the 840 animal identification number system and is working with private tracking system providers on animal tracking database issues.
- TAHC has registered approximately 18,000 premises on a voluntary basis
- Results are being compiled for the Texas Animal Identification Project. Preliminary information shows that over 34,500 animals from 33 premises were tagged with RFID tags, and reported by premises to the database. The results of the project will provide a good assessment of the technology and document good points, shortcomings, flaws and failures.
- TAHC has applied for another USDA Animal ID Cooperative Agreement. The funds will be used for premises registration and outreach/education.

Fever Ticks

- Mr. Ed Bowers provided a detailed report later during the Commission Meeting
- At the end of March, 2006, there were 37 infested herds in the Quarantine Area and 21 infested herds in the Free Area
- The Strategic Plan for the Fever Tick program has been completed and submitted to the USDA/APHIS/VS Deputy Administrator's office for review and approval.
- The Fever Tick Program review has been scheduled for late September.

Tuberculosis

- Testing of beef purebred and seedstock herds is complete with the exception of one herd which is under legal action.
- 818 dairy herds have been tested and 2009 beef herds have been tested.
- The TB program review requested by TAHC to move the state to TB Accredited Free Status was conducted by USDA in June. Unless unforeseen events occur, or additional

TB infected herds are discovered, Texas should regain TB Accredited Free Status this fall.

Brucellosis

- No new Brucellosis infected cattle herds have been identified since the last Commission Meeting
- Currently there is one brucellosis infected cattle herd in the state. If the quarantine releasing test, which is being conducted today, for the herd is negative, the quarantine can be released.
- If no additional brucellosis infected cattle herds are identified, Texas will request Brucellosis Free Status.
- A Brucellosis Eradication Working Group (WG) has been formed by Chairman Richard Traylor and the Executive Director to aid in the effort to get Texas to zero infected herds. This Working Group has been charged to (1) Review the Brucellosis Program; (2) Identify problems, challenges, and inconsistencies; and (3) Make recommendations to the Commission for improvement to the program. The Working Group met on June 21 and identified 15 items. A subcommittee was formed and had its first meeting on July 20. A report is being developed, but is not yet ready for final approval and submission to the Working Group.

Swine Brucellosis and Pseudorabies

- There has been a significant swine brucellosis and swine pseudorabies outbreak in transitional swine herds. Details are provided in the Animal Health and Epidemiology report.

Chronic Wasting Disease

- The USDA published a final rule in the Federal Register on July 21, 2006 entitled *Chronic Wasting Disease Herd Certification Program and Interstate Movement of Farmed or Captive Deer, Elk, and Moose; Final Rule*. We have begun a review of the rule, but have not completed an assessment of the impact of the new rule on our elk and CWD program.

Administrative Matters

- Congratulations to Carla Everett as the recipient of the Texas Pork Producers Association's *Industry Service Award*.
- Dr. Max Coats, Deputy Director for Epidemiology, Laboratories and Support Services retired yesterday, July 31, 2006.
- Patti Kuhles, Director of Human Resources has announced that she is retiring next month.
- In light of these two vacancies with a review of agency needs and function, we have made recommendations for changes to the agency structure which will be addressed in the HR Subcommittee report.

Petitions to Change Rules and Proposed Rulemaking

- One petition addresses changing the testing requirements for showing cattle.
- The second petition addresses official identification of exotic fowl.
- A proposed rule regarding approved personnel has been developed for your consideration
- A proposed rule to repeal the elk identification rules has been developed for your consideration.

Strategic Planning

- TAHC staff completed the 2007-2011 Strategic Plan and submitted it to the LBB and the Governor's Office for Budget, Planning and Policy by the June 23, 2006 deadline

Budget Issues

- First point testing numbers will finish the year higher than in the past. The agency has acquired an additional \$200,000 cooperative agreement from USDA.
- The Legislative Budget Board posted instructions for agencies to limit their General Revenue requests to 90% of the current baseline budget. For TAHC this represents a decrease in General Revenue of approximately \$800,000 for each year of the biennium.
- The agency has developed its Legislative Appropriation Request (LAR in accordance with the LBB instructions. Our LAR includes four exceptional items:
 - (1) Restore the 10% GR funds
 - (2) Longevity and Mileage
 - (3) Request for four staff positions – three for Emergency Management, one for compliance
 - (4) Capital – Information Resources and Vehicles

Sunset Review

- The next hearing of the Sunset Advisory Commission is scheduled for August 8, 2006. During this hearing, the Sunset Advisory Commission is to make its decision relative to final recommendations for the Texas Animal Health Commission

Waivers

- Since the May 4, 2006 Commission meeting, TAHC has approved six requests for waivers. Three waivers were for movement of cattle between Texas and New Mexico for grazing under commuter herd agreements. One was for movement of cattle between Texas and Oklahoma for grazing under a commuter herd agreement. One request was to allow a bull to be dipped for ticks one day late (15th day) and moved to the new premises for breeding purposes. One waiver was a request to allow a zebra from a zoo in New Mexico to be moved to an animal collection in Texas and be tested for EIA upon arrival. One request for waiver was denied to move elk into Texas without the required tests, requesting tests be done upon arrival.

Planned Activities

- Continue voluntary premises registration
- Animal Identification outreach
- Designated Brucellosis and Tuberculosis Epidemiology Training
- National Animal Identification Symposium
- Southwest Veterinary Symposium
- Tick Program Review
- USAHA annual meeting
- BiNational TB and Tick Committee meetings
- Interim Legislative Committee and Subcommittee meetings
- Industry information and outreach meetings

Commissioner Coleman Locke moved and Commissioner Rita Baca seconded a motion to approve the actions of the Executive Director for the period from May 4, 2006 through July 31, 2006. The motion carried unanimously.

Item 4 – Presentation of Animal Health Activities Update and Animal Disease & Epidemiological Report

Dr. Hillman presented this report for Dr. Ellis who was unable to attend.

Tuberculosis

- 92% of all producers who were sent mandatory letters tested their cattle. The remainder were out of business, or did not fit criteria. TB fee basis money for vets was halted on July 1, 2006.
- The TB Review was completed in June and reviewers have not indicated that any major problems were detected. The reviewers did focus on the El Paso Milk Shed situation and will probably have some recommendations on how best to handle that issue. They were impressed with the surveillance testing and other mitigation activities the Texas TB working group and the Commission have put in place since 2002.

Brucellosis

- Texas' only infected herd is set for its releasing test on August 1, 2006
- There is one herd pending with 5 non-vaccinate reactors disclosed following a market reactor. All positives including the market reactor are still alive and are to have a final retest and re-milk this week. They have been removed from the herd and are being held in isolation. They are scheduled to be slaughtered for lymph node collection next week.
- TBVME has agreed to consider changing their rules to allow lay personnel under general supervision to collect blood samples on a premise for cattle destined for slaughter. Their board meets in October and February, so they cannot officially change the rule until March.

Swine Brucellosis

- There have been 14 infected transitional herds disclosed this year with swine brucellosis. Over 100 total trace out herds are in the process of being tested. Six of the TAHC Area Offices are involved, as well as, Arkansas, Louisiana, and Oklahoma.
- In June, USDA evaluated this situation in Texas. USDA is working to streamline the indemnity process for infected herds, and to analyze the program in all states. They requested Texas prepare a suggested budget and protocol for FY '08 that would support more aggressive surveillance activities in the transitional swine population.

Scrapie

- Discussions are underway with industry on the possibility of strengthening Texas entry requirements to include more than just black faced breeds for scrapie genotype testing prior to entry.

Emergency Management

- The Governors Division of Emergency Management has assigned TAHC as the lead agency for all animals in disaster issues in Texas.
- TAHC has been working with TCE and veterinary practitioners to develop animal issue committees in all counties, as per the Governors response plan.
- Cities that are identified to receive human evacuees are now trying to develop contingencies to receive the animals that will accompany them. People with pets are being considered as people with "special needs".
- TAHC continues to work with the TVMA and other partners to develop the State Animal Resource Team (SART), which was created to assist in natural disaster animal response issues.

Program Disease Progress Report

- A detailed report was provided in the notebook
- We have had no new brucellosis infected herds this year

- Tracing and testing activities are ongoing
- Thus far this year we have not had to spend state dollars for indemnity. USDA has spent over \$188,000.
- We continue to have slaughter traces. Most of these are Mexican origin cattle.
- The Caudal Fold Response Rate by Private Practitioners indicate that we have a better than national average rate.
- EIA testing continues. We appear to be on target with where we were last year.

Item 5 – Administration/Budget Status Report

- Mike Jensen, Deputy Director of Administration & Finance presented the Method of Financing Report effective June 30, 2006; the Budget Category Summary; and the Department Summary.
- Our agency has developed a Fraud Prevention Plan and an Energy Conservation Plan.
- The Strategic Plan has been completed. We are currently working on the LAR. The submission date for the LAR is August 11, 2006. Each commissioner will be provided a copy of the final LAR document.
- The transaction fee for ordering health certificates online will be \$2.00 per book. There was discussion regarding this transaction fee being excessive. Because BearingPoint has been selected as the vendor by the State of Texas, we must go through them first. The transaction fee will be charged to the veterinarian ordering the books online. Mike will have additional discussion with the vendor and provide a status report at the next Commission Meeting. We would still have the availability to ship them from our Agency.
- The Agency has an opportunity to draw an indirect cost rate from the Earned Federal Funds in the amount of \$100,000. We can request authority to use those funds.

Commissioner Edmiston moved and Commissioner Simmons seconded a motion to approve the Fiscal Year 2006 Operating Budget as presented and discussed today. The motion passed unanimously.

Item 6 – Legislative Appropriations Request

Mike Jensen presented the preliminary LAR with the proposed 10% required budget reduction. This proposed budget would result in a reduction in the number of TAHC personnel and the closing of one Laboratory. The budget does include an exceptional item requesting restoration of the General Revenue. The Exceptional Item Request amount is approximately \$1.5 Million in FY 2008 and FY 2009. The Exceptional Items include: (1) Restore General Revenue - \$789,959; (2) Longevity and Mileage - \$258,556; (3) Staff – Emergency Management & Compliance - \$280,789; Capital – IR and Vehicles - \$186,825. Explanations regarding the impact of the required 10% reduction in budget to the functions of the Agency will be provided during the presentation of the LAR.

A salary comparison for Executive Directors in comparable size Agencies and for positions in the Executive Group 5 was presented. The salary for the Texas Animal Health Commission Executive Director is the lowest salary in Executive Group 5 and lower than most in comparable size agencies.

Commissioner Martinez moved and Commissioner Edmiston seconded a motion to approve the Legislative Appropriations Request for FY 2008 and FY 2009 including the request to increase the salary of the Executive Director, the Exceptional Items and Capital Projects, as well as the Operating Budget for 2007 as presented and discussed today. The motion passed unanimously.

Item 7 – Report from the Audit Subcommittee

Commissioner Windham, Chair of the Audit Subcommittee, gave a report on the Audit Subcommittee meeting held at 8:00 a.m. Mr. Monday N. Rufus presented audit information in three (3) areas.

- Follow-up Audit of Area 7 – Rockdale - One recommendation made in the December 12, 2003 audit report had not been implemented by the Area 7 Office. This recommendation was to further enhance the reliability and integrity of information by ensuring the accuracy of employee entry production. The auditors believe no changes had been made since the original audit because of a change in staff. A new process will now be implemented. This report was approved by the Audit Subcommittee
- Audit of the State/Federal Laboratory in Lubbock. – The laboratory has policies and procedures in place to test samples accurately and effectively. The audit team was impressed with the excellent quality and integrity of the Lubbock Laboratory and personnel. This report was approved by the Audit Subcommittee
- Audit on Fixed Assets – Austin Office - The results of the audit disclosed that the Commission has policies in place for the fixed asset processes. Additionally, recommendations were made to enhance the implementation of these processes. Management has ensured compliance with additional control procedures. This report was approved by the Audit Subcommittee.

Commissioner Dyess moved and Commissioner Edmiston seconded a motion to approve the report from the Audit Subcommittee as discussed today. The motion carried unanimously

Item 8 – Report from the Human Resource Subcommittee

Commissioner Martinez, Chair of the Human Resources Subcommittee presented a report from the Human Resource Subcommittee meeting held at 8:30 a.m. Commissioner Martinez presented the current TAHC Organizational Structure and the proposed TAHC Organizational Structure. Mrs. Patti Kuhles, HR Director, explained the proposed changes to the Organizational Structure. The Human Resources Subcommittee approved this organizational change.

Commissioner Dyess moved and Commissioner Kezar seconded the motion to approve the recommendations made by the Human Resources Subcommittee as discussed today. The motion carried unanimously.

Item 9 – Fever Tick Report

Mr. Ed Bowers with USDA/APHIS Veterinary Services in Texas provided an update on the tick eradication program in Texas. He also provided handouts which outlined the five program goals listed in the Veterinary Services national strategic plan for cattle fever tick eradication.

- Prevent the entry of cattle fever ticks into the United States
- Enhance and maintain an effective surveillance program to rapidly detect any cattle fever tick incursions.
- Prevent the establishment of cattle fever tick infestations resulting from incursions into the United States.
- Identify and procure the tools and knowledge necessary to maintain the United States as free of cattle fever ticks.
- Foster collaboration and cooperation with Mexico to eliminate cattle fever ticks in areas of Mexico that impact the United States.

Following a report on the current status of tick infestations in Texas, Mr. Bowers recommended the current quarantine line be moved to enlarge the quarantine zone. Action on this recommendation will be taken at the next Commission Meeting.

Item 10 – Consideration Of and Possible Action on Agency Contracts and Purchases.

Mr. Mike Jensen presented the following information:

Contracts, Purchases, Leases Greater than \$5,000 but Less than \$10,000.

- Fleet Vehicle Liability Insurance Coverage - \$9,509

Expenses Associated with the NAIS Project

- Equipment for NAIS Project data entry - \$5,778.72
- Server Workstations & related peripherals - \$14,820
- Temporary Data Entry employees - \$36,240

Commissioner Wood moved and Commissioner Simmons seconded a motion to approve the contracts and purchases request for the period from May 1, 2006 through July 31, 2006. The motion carried unanimously.

Item 11 – Presentation for Approval – An Agreed Order with Mr. Johnny Merriwether resolving violations of Commission Rules

An Agreed Order signed by Mr. Johnny Merriwether and Dr. Bob Hillman was presented for approval by Mr. Gene Snelson. The Agreed Order resolved violations of Commission rules for the amount of three thousand seven hundred and seventy five dollars (\$3,775.00). The violations involved noncompliance with regulations dealing with animal testing, entry of animals, and record keeping.

Commissioner Morales moved and Commissioner Simmons seconded a motion to approve the Agreed Order with Mr. Johnny Merriwether resolving violations of Commission Rules as discussed today. The motion carried unanimously.

Item 12 – Petition to Change the Rules Regarding Entry Requirements for Showing Cattle in Texas

The Commission received a petition to change the rules regarding the testing of cattle/calves participating in shows, fairs and exhibitions. Following an evaluation of this request, the commission staff recommended the petition be denied.

Commissioner Simmons moved and Commissioner Martinez seconded the motion to **deny** the petition to change the rules regarding entry requirements for showing cattle in Texas. The motion carried unanimously.

Item 13 – Petition to Change the Rules Regarding Identification Requirements for Exotic Fowl – Ratites

The Commission received a petition from the American Ostrich Association to change the rules requiring exotic fowl to be identified by a microchip. The changes in technology and the ostrich business necessitate the change of acceptable forms of animal identification to RFID tags and permanently attached tags.

After evaluation of the request, the commission staff agrees it would be appropriate to modify the current identification requirements to incorporate other forms of official identification, such as RFID tags. Staff will bring a proposal to the next meeting of the Commission for consideration to amend the rules to allow use of other identification methods, such as RFID tags.

Commissioner Locke moved and Commissioner Edmiston seconded the motion to approve the petition to change the rules regarding identification requirements for Exotic Fowls – Ratites. The motion carried unanimously.

Item 14 – Consideration of and Possible Action on Regulation Proposals Regarding:

- (a) **Chapter 47, Approved Personnel**
- (b) **Chapter 40, CWD (related to Elk)**

Amendments to Chapter 47, Approved Personnel, Rule 47.1 Definitions and Rule 47.2 General Requirements were recommended by staff to allow brucellosis approved individuals to draw blood samples under the general supervision of an approved veterinarian when collecting blood samples on animals to be consigned directly from the ranch to slaughter and submitting them to the state/federal laboratory for testing.

Commissioner Windham moved and Commissioner Kezar seconded the motion to approve the amendments to Chapter 47, Approved Personnel, as discussed today. It was further moved that notice of the proposed amendments be published in the *Texas Register* with a thirty day comment period. The motion carried unanimously.

Amendments to Chapter 40, CWD, Rule 40.5 Monitoring Requirements for Elk
After considering the fact that the National Animal Identification System has not yet been made mandatory for other livestock programs, a request was received from the Elk Industry to remove the monitoring requirements for Elk. This motion would propose an amendment to remove these monitoring requirements for Elk.

Commissioner Edmiston moved and Commissioner Baca seconded the motion to propose the amendments to Chapter 40, CWD (Related to Elk), as discussed today. It was further moved that notice of the proposed amendments be published in the *Texas Register* with a thirty day comment period.

Item 15 – Consideration of and Possible Action on Regulation Rule Review Proposals Regarding:

- (a) **Chapter 47, Approved Personnel**
- (b) **Chapter 49, Equine**
- (c) **Chapter 53, Market Regulation**
- (d) **Chapter 56, Grants, Gifts and Donations**

Notice will be given on four chapters for Rule Review.

Commissioner Locke moved and Commissioner Kezar seconded the motion to propose for Rule Review **Chapter 47, Approved Personnel**, as found in Sections 47.1 through 47.6 of Volume 4 of the Texas Administrative Code, as discussed today, and that notice be published of the rule review in the *Texas Register* with a thirty (30) day public comment period. The motion carried unanimously.

Commissioner Windham moved and Commissioner Baca seconded the motion to propose for Rule Review **Chapter 49, Equine**, as found in Sections 49.1 through 49.3 of Volume 4 of the Texas Administrative Code, as discussed today, and that notice be published of the rule review in the *Texas Register* with a thirty (30) day public comment period. The motion carried unanimously.

Commissioner Dyess moved and Commissioners Baca and Locke seconded the motion to propose for Rule Review **Chapter 53, Market Regulation**, as found in Section 53.1 through 53.3 of Volume 4 of the Texas Administrative Code, as discussed today, and that notice be published of the rule review in the *Texas Register* with a thirty (30) day public comment period. The motion carried unanimously.

Commissioner Real moved and Commissioner Martinez seconded the motion to propose for Rule Review **Chapter 56, Grants, Gifts and Donations**, as found in Sections 56.1 through 56.7 of Volume 4 of the Texas Administrative Code, as discussed today, and that notice be published of the rule review in the *Texas Register* with a thirty (30) day public comment period. The motion carried unanimously.

Item 16 – Recognition of Public Comment

Public comment was offered by:

- Dianna Westmoreland representing the American Ostrich Association
- Al Howe representing the Texas Emu Association & other Ratite Associations
- Kirby Brown representing the Texas Wildlife Association
- Charly Seale representing the Exotic Wildlife Association

Item 17 – Set Dates for the 361st, 362nd and 363rd Meetings

361st Meeting – December 5, 2006

362nd Meeting – February 13, 2007

363rd Meeting – May 15, 2007

Item 18– Item Description

The meeting adjourned at 12:22 pm