

**MINUTES**  
**ALABAMA FORESTRY COMMISSION**  
**April 3, 2017**

PRESIDING – Jerry Dwyer, Chairman

SECRETARY – Gary Cole, Interim State Forester

COMMISSIONERS PRESENT – Jerry Dwyer, Jane Russell, Tommy Thompson, Salem Saloom, Stephen May, Robert Turner, Katrenia Kier, and Joe Twardy.

ALABAMA FORESTRY COMMISSION PERSONNEL PRESENT – Gary Cole, Dan Jackson, Scott Rouse, Arthur Hitt, Jason Dockery, Bruce Springer, Becky Jackson, John Goff, Brandy Sponsler, Mike Kyser, Greg Wood and Regina Miller.

GUESTS – Sam Duvall, Russell Ledbetter, Will Green, and John Boutwell.

MEETING CALLED TO ORDER – Chairman Dwyer called this special meeting of the Alabama Forestry Commission (AFC) to order at 9:04 a.m. on April 3, 2017 in the Alabama Forestry Commission's State Office located at 513 Madison Avenue, Montgomery, AL 36104.

Regina Miller called roll and Commissioners Jerry Dwyer, Jane Russell, Salem Saloom, Steve May, Robert Turner, and Joe Twardy were present. Miller announced that a quorum was present. It was announced that Mrs. Kier had not yet arrived. Miller then announced that the meeting had been properly advertised.

MINUTES OF THE JANUARY 18, 2017 MEETING – **MOTION #2017-06: Robert Turner made a motion to approve the minutes of the January 18, 2017 meeting with corrections regarding the Hauss Nursery Lease Update to state on page 9 that if we extend the lease on the property with the same accelerators, we will earn an additional \$460,000 and the total amount received over 20 years will be over \$800,000 with the accelerated amount. Jane Russell seconded the motion and the motion passed by unanimous vote in favor of the motion.**

NEW COMMISSIONER – Jerry Dwyer asked new commissioner Joe Twardy to introduce himself. Twardy stated that he graduated in 1972 from Auburn University with a degree in Forest Management. He stated that his career was spent in Pine Hill in southwest Alabama and that he worked through three acquisitions, McMillan Bloedel, Weyerhaeuser and retired with International Paper Company. He stated that most of his career was spent in management, specifically fiber supply.

BUDGET UPDATE: Interim State Forester Gary Cole reported that there were two documents in their folders - one being revenues and one expenditures. He discussed expenditures by stating that we should be at 50% in our spending and our records reflect we are currently at 50.51%. Cole explained that under Object Code 0900 we are at 72.92% in our spending due to expenditures from last fall with insurance on vehicles and costs for supplies at offices. As we move forward, supply costs should lessen. Another high Object Code is 1300 at 442.57% but the amount spent was \$17,038.91 for one bed for a transport unit that was ordered in FY2016 and was held up in purchasing until FY2017. He stated we are on target and should not expend all our budget before the end of the fiscal year. (Attachment #1)

Cole said the legislature is considering giving us a \$550,000 special appropriation and we are also working to match grants so we can earn additional grant funds. Equipment purchases will remain frozen as we move into FY2018.

Jerry Dwyer verified that equipment purchases and upgrading of equipment will remain frozen going into FY2018. He also verified that travel has been reduced with Cole saying there is some travel due to things

that absolutely must be done. Joe Twardy asked how the difference of \$2,000,000 in revenue and expenditures was determined. Cole said the difference is last year's numbers except for timber sales. Most of the numbers are historical, with timber sales and grants lower. He also said that approximately \$1,000,000 will be given to volunteer fire departments, as required by the Legislature.

Twardy stated that it would be easier for him to understand the budget if we had flow charts to see the potential to generate funds. Gary asked Walter and John to develop a one-time explanation of our grants and what they are for Commissioners. Twardy asked, other than grants, if there are other sources of revenue that vary. Cole explained the sources of revenue: services to landowners, federal grants, severance tax and acreage assessment revenue, and General Fund appropriations.

Steve May stated that he thought everyone agreed there needs to be a change in the severance tax bill to bring us up to modern-day standards on how things are measured and priced out. He said that he was surprised that this was done without involving us. When we met with the Alabama Department of Revenue, Chris Isaacson and Tom Saunders were arguing for the bill to change the collection and Revenue was arguing against the bill. The Commission was in the dark about how this happened without our knowing anything about it. May said the tax does need to be changed because it is archaic.

Joe Twardy said that the Alabama Forestry Association (AFA) is trying to support their members but the bill actual hurts the Forestry Commission because of the loss in revenue. May said there is also a clause to abolish back taxes owed by International Paper Company (IP). General Counsel Scott Rouse said there has been a lot of talk about how this tax is enforced and collected. According to Revenue, IP owes approximately \$1.2 million in back taxes, and about that much more is owed by other businesses. Twardy said this bill would make the tax easier to calculate. Cole said that the Commission has been advocating to keep the bill revenue-neutral. May said that Isaacson approached the Commission and asked us not to oppose the bill but never asked us to be part of the process.

Twardy said he would like to see reports on safety in the field; for instance, accidents, near misses, etc. He said that employees are our most important resource and would like to see that elevated. Cole responded that we have a state safety officer located in the state office who is responsible for the safety program throughout the state. He also said that each region has a safety officer and conducts regular safety meetings. If there is an incident in the field the agency safety officer investigates and may be assisted by a regional safety officer and others to evaluate the incident. Twardy said he would like to know more about safety. Cole said we can make that a regular report at future Commission meetings. Jerry Dwyer assured Commissioners that safety has always been a priority.

Dwyer reported that we will begin working on the FY2018 budget much earlier by beginning in April instead of July as is customary.

GRANTS – Cole reported that we are trying to earn an additional \$1,157,970.37 in grant funds this fiscal year. There are remaining grant funds from FY2014, 2015 and 2016 that we can earn by matching employee time. Twardy recommended keeping a scorecard of grant earnings monthly instead of quarterly to better manage grants saying it will help field personnel. (Attachments #2)

EXECUTIVE SESSION –Dwyer announced that Commissioners were entering an executive session to discuss pending litigation as well as other issues. Rouse explained that sometimes commissioners go into executive session to discuss sensitive issues and explained that there must be a convened meeting, a quorum must be present, and potential subjects must be stated that will be discussed. In today's session, discussion on threatened or pending litigation, issues regarding a sale or lease of property, and possibly the character or reputation of an individual might be addressed. For the litigation issue, the law requires that the attorney must make a statement that planned discussion will be consistent with that part of the statute and Rouse stated that it is. **MOTION #2017-07: Steve May made a motion to go into executive session. Robert Turner seconded the motion. Jerry Dwyer, Jane Russell, Salem Saloom, Steve May, Robert Turner, Joe Twardy voted to approve the motion. Katrenia Kier had**

**not arrived for the meeting. The vote carried by majority vote. Dwyer announced the Commission will be reconvening following the executive session at approximately 10:45 a.m. and, if the session takes longer it will be announced when the regular meeting is once again in session.**

At 10:15 a.m. Dwyer adjourned the regular meeting for a 5-minute break announcing the executive session will begin immediately following the break.

At 11:19 a.m. Dwyer reconvened the meeting into the regular session. He stated that during the executive session there was no official action or votes taken on any business discussed. He stated that a quorum is present as the regular meeting reconvenes.

STATE FORESTER – Dwyer said that Gary Cole had been asked to continue serving as State Forester but Cole could not continue to do so. He complimented Cole by saying he has done a stellar job and would have been a great permanent State Forester if he could have continued. He pointed out that Cole is currently serving as State Forester with no compensation.

Dwyer stated there was a failed search for a new State Forester so he and Vice-Chair Jane Russell reviewed the resumes of the current applicants as well as past applicants from the 2013 State Forester search. He said they identified one person that had many years of experience working with the state legislature, which we must have, and said that he is well respected throughout the forestry community.

Dwyer said that he contacted this person, and he stated he was interested in serving in the position. Dwyer said he explained the current circumstances confronting the Commission. He said Rick Oates is this person and stated he is currently employed by the Alabama Farmers Federation and that he had a long career with the Alabama Forestry Association. Dwyer said he emphasized to Oates that he and Russell would like for him to serve in the position but the entire Commission would have to make the decision on his selection as State Forester. Dwyer then nominated Rick Oates to serve as State Forester.

Russell stated that she spent a lot of time reviewing all the resumes of prospective State Forester candidates and shared that she did not believe it would be fair to bring up the name of an individual who is not capable of handling the circumstances the agency faces at this time, especially concerning the budget. She shared that employees are close to her heart and what we are facing is not going away.

Russell emphatically stated that Gary Cole has done an outstanding job with the situation he has been confronted with. She said she could not say enough good things about him; he has worked diligently and very hard. After reviewing resumes for hours, she stated that, in her opinion, there is no other person as qualified as Oates and said he has experience in dealing with what we are facing at this time. She stated that we need to move forward and that she concurs with everything Dwyer had said. **MOTION #2017-08: Jane Russell then made a motion to nominate Rick Oates as State Forester. Robert Turner seconded the motion.**

**Salem Saloom stated he did not understand why the State Forester Search Committee did not recommend the three top candidates to Commissioners. Katrenia Kier stated that she believed the committee did not think the candidates were qualified to recommend them for the State Forester position. However, she said that she would have preferred that Commissioners could have interviewed the top candidates but that is not what we are dealing with at this time. Saloom said he believed that we botched the process. He said he loved Oates and that he was a good friend but stated that other Commissioners have decided who should be State Forester. Saloom said the selection process should be reopened.**

**Twardy said it did not feel right not having more of a selection but understands the crisis we are in. He said that he does not have a problem with Oates, just the process.**

Kier said she would like the minutes to state that the Selection Committee did not fail; they did what we asked them to do. She said she would agree to extend the search if we were not in this critical time. She said that Oates fits the criteria of who we need. Rouse informed Commissioners that Russell needed to amend her motion to say she was making a motion to appoint rather than nominate Oates as State Forester. Turner once again seconded the motion. Salem Saloom said that he will vote no but that it is no to the process, not no for Oates. Twardy stated that he also felt as Saloom did. With no further discussion, Jane Russell, Steve May, Robert Turner, Katrenia Kier, and Jerry Dwyer voted in favor of the motion. Salem Saloom and Joe Twardy voted against the motion. The motion passed by majority vote.

Jerry Dwyer then stated that he had asked State Personnel to review Oates's salary history and make a recommendation regarding an annual salary amount. **MOTION #2017-09: Based on the recommendation of the State Personnel Department, Dwyer made a motion to pay Oates a salary of \$128,440.80 annually. He added that this amount is lower than the previous permanent State Forester. May seconded the motion. Steve May, Jane Russell, Robert Turner, Katrenia Kier and Jerry Dwyer voted in favor of the motion. Salem Saloom and Joe Twardy abstained from voting. The motion passed by majority vote.**

Cole thanked the Commission for the opportunity to serve as Interim State Forester and stated that he will continue to volunteer as needed. May thanked and praised Cole on behalf of the Commissioners as well as the agency for doing an excellent job. Dwyer stated that Cole will need to continue to serve until the Governor has signed the paperwork appointing Oates.

PERSONNEL – Brandy Sponsler reported that we began fiscal year 2017 with 243 employees and currently have 232 employees due to seven retirements and four resignations. She asked Commissioners to refer to a map in their packets that shows where field employees are based by county. It was noted there are five counties with no personnel. The second map displays field personnel by county and average fire by county. Discussion ensued regarding the possibility of the new State Forester reorganizing due to only one or no employees in many counties. Twardy expressed concern about one person responding to a wildfire from a safety standpoint. He said he would like to review policy and procedures and what is happening on the ground. Saloom stated that one person cannot respond to a fire. Twardy said that it should be demanded from the hierarchy that an employee's personal safety comes first. (Attachment #3)

May explained that many legislators confuse us with the Alabama Forestry Association and many do not realize how dire our situation is.

Kier shared that she had learned about Alabama A&M University's Fire Dawgs, who had assisted us fighting wildfires last fall and recommended that we be creative and explore other entities that could possibly assist us fighting wildfires.

Cole mentioned that we can also hire retired state employees in a limited capacity if needed, and are doing so.

Twardy asked if Commissioners could obtain job descriptions for Forestry Commission employees. He also stated that he would like to see written policies and procedures on the actual process of how issues and complaints are handled. Kier asked that this information be sent to all Commissioners. Cole suggested that Commissioners be provided a password to see these publications on PHOENIX since it is difficult to print the publications.

LEGISLATIVE UPDATE –Rouse reported that the agency could not utilize funds in our Emergency Fire Fund even in an emergency due to language in the FY2017 budget act. He stated that Governor Bentley did provide some additional funding. Legislation has been introduced to change the language to include the word "estimated" in the appropriation in the future. He stated that we have obtained \$180,000 from

the fund this year with a remainder of approximately \$600,000. The legislation would give us spending authority for \$550,000 in the fund. Regarding the FY2018 budget, we hope to be given an additional \$800,000 in addition to the Governor's recommendation of level funding. Dwyer pointed out that \$99,000 of the added amount would be pass-through and would go to volunteer fire departments. Cole said that amount fluctuates but it is a percentage of our General Fund appropriation. Cole said we will need direction from Commissioners, if you want us to ask for more money or just lobby to keep the \$800,000. Dwyer said we need to be content with the \$800,000. May and Russell said we need to continually retain a presence at the State House and thank legislators for their support.

Severance Tax – Rouse said the Alabama Forestry Association had proposed legislation that could potentially result in the Commission sustaining a one-time loss of \$3,900,000 to \$4,000,000 and an annual recurring loss of \$1,500,000 to \$1,800,000. There is a retroactive clause that changes the law regarding the severance tax going backward. According to Revenue, there is potentially \$3,900,000 to \$4,000,000 that we could lose by changing the law retroactively. There is a substitute bill that lowers these losses substantially and now there would be a \$2,600,000 to \$3,000,000 one-time loss and annually a \$453,000 to \$640,000 annual reduction in collections and that is where it stands now and could be a tremendous loss in revenue for us. Dwyer stated that we are not opposed to the legislation if it is revenue-neutral. Following discussion regarding the bill, May made a motion that we prefer that the bill be withdrawn but if it is not withdrawn then we should resist it. Jerry Dwyer stated that AFA did take out some of the provisions that helped alleviate some of our concerns regarding the amount of money. Rouse said the projected loss fell about a million dollars annually. One provision would limit the amount that Revenue could take off the top for administrative purposes. Some language would be eliminated regarding spending funds in the particular county it is collected because it would often be difficult to do. The bottom line is that it could hurt our budget considerably. Discussion continued that we should communicate with AFA regarding our stance on the legislation. Following lengthy discussion, it was decided that the State Forester and Rouse would contact Chris Isaacson and ask him to share the projected revenue numbers with us and how it could affect us.

RFP FOR LITTLE RIVER STATE PARK – Rouse stated that he and Cole had composed a Request for Proposals (RFP) to solicit vendor(s) to put the park back into productive use. He said we do not want to lease or sell the property; we want to give someone a license to operate on the property. The RFP process will remain open until May 1, 2017. Rouse will check on posting the RFP on the state RFP database website. (Attachment #4)

HAUSS NURSEY LEASE UPDATE WITH PRT - Rouse updated Commissioners regarding the lease at Hauss Nursey with PRT saying a 10-year lease with the company was finalized and they have been on the property since Thanksgiving. He said they have made improvements such as installing an irrigation system. Rouse asked Commissioners if they wanted to consider approving a 10-year extension to the existing 10-year lease. **MOTION #2017-10: Jerry Dwyer made a motion that, at the present time, we will not grant an extension on the lease but will keep the option open. Steve May seconded the motion. The motion passed by unanimous vote.** (Attachment #5)

Commissioners thanked Saloom for his service as a Commissioner with the expectation that a new Commissioner will be approved by the Senate very soon.

DATE AND LOCATION OF NEXT MEETING – Commissioners scheduled the next meeting at 10:00 a.m. on May 25, 2017 at the Commission's State Office.

ADJOURNMENT –There being no further business, Dwyer adjourned the meeting at 1:45 p.m.