

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	March 16, 2011
Location	6900 Atmore Drive Richmond, Virginia
Presiding.....	Peter G. Decker, III, Chairman
Present.....	Cynthia M. Alksne Jonathan T. Blank (via teleconference) Kurt A. Boshart Felipe Q. Cabacoy William E. Osborne Rev. Anthony C. Paige B. A. Washington, Sr. One Vacancy

1:00 p.m., Wednesday, March 16, 2011
6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. Director Clarke welcomed and wished everyone a Happy New Year. He noted the newly appointed Virginia Parole Board members were present to be introduced to the members of the Board of Corrections.

Parole Board Chairman William Muse thanked the Director for the introduction and his staff for all of their help during the transition. The other Parole Board Members present introduced themselves: Vice Chairman, Ms. Karen D. Brown from Tidewater, Mrs. Rita Angelone from Richmond and Mr. Minor F. Stone from Tidewater. Chairman Decker welcomed each to his/her new position and stated he looks forward to working with them. They were then excused.

Chairman Decker asked meeting attendees to identify themselves for the record after which the Board roll call was given. Seven members were present in person. Mr. Blank was participating via teleconference. There is one vacancy on the Board as a result of the passing of long-time member Raymond W. "Bobby" Mitchell.

I. Board Chairman (Mr. Decker)

1) **Board Motion to Approve October Minutes**

The Chairman called for a Motion to approve the October Board Minutes.

By a quorum of those members present at the October meeting and by **MOTION** duly made and seconded, the October Board Minutes were **APPROVED** by verbally responding in the affirmative (Alksne, Boshart, Cabacoy, Osborne).

There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Mr. Blank's vote was not considered as he was not physically present. Messrs. Paige and Washington's vote was not considered as neither was present at the October meeting. There is one vacancy.
The Motion carried.

2) **Board Motion to Approve November Minutes**

The Chairman called for a Motion to approve the November Board Minutes.

By a quorum of those members present at the November meeting and by **MOTION** duly made and seconded, the November Board Minutes were **APPROVED** by verbally responding in the affirmative (Boshart, Cabacoy, Osborne, Paige, Washington).

There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Mrs. Alksne's vote was not considered as she was not present at the November meeting. Mr. Blank's vote was not considered because he was not physically present today and was absent from the November meeting. There is one vacancy.

The Motion carried.

3) **Proposed Board Motion to Approve Official Name for Completed Correctional Facility Located in Grayson County**

Last year, the Board solicited input from both Grayson County and the Department for a recommended name for the now-completed correctional facility in that locality. The County proffered three names in the following order: Pennhook (the former name of the current Town of Independence, Virginia); River North (because the New River is located nearby and is the only river in North America that flows south to north); and Blue Ridge. The Department proffered the name Mt. Rogers Correctional Center (the facility is located in the Mt. Rogers Planning District) and asked the Board to consider, approve and recommend that name to the Secretary for her concurrence, who will then forward the recommendation to the Governor for final approval.

Prior to a motion being made, Mr. Osborne spoke and indicated that if the locality wants the facility named Pennhook, it should be named as such. Mr. Leininger went over the process taken to arrive at the names recommended by Grayson County as well as by the Department. After some discussion, it was decided to **DEFER** this item to the May meeting in order to again ask Grayson officials for their input and to let them know the Department's recommendation. A letter to that effect will be written by the Board Chairman as soon as possible.

No action by the Board is required at this time.

4) **Letter of Concern Sent to Each Board Member** – Ms. Jennings

Ms. Jennings discussed the letters in question from Mr. Shaheed Omar. She went into how all of his letters are carefully reviewed by the Inspector General. She explained the process whereby if criminal allegations are indicated, follow up is provided by the Department's Special Investigations Unit. When operational issues are indicated, those letters are forwarded to the appropriate Executive Staff member for handling.

Mr. Washington and other members requested that an update be provided as to the outcome of the review of the issues in the letters sent to the Board members. Ms. Jennings indicated she will provide a synopsis to the Board at the May meeting. Mrs. Alksne noted the letters were also sent to the Department of Justice and the FBI, who are performing interviews as a result of the allegations.

No action by the Board is required at this time.

5) **Management Information Summary (MIS) Annual Report for Fiscal Year Ended June 30, 2010** – Ms. Scott

Ms. Scott noted the MIS Annual Report is a snapshot of the Department's year in review; who we are, where we have been; what it costs to keep a prisoner (direct and indirect costs); what it costs to run major institutions, field units and Probation & Parole Offices, among other things. She suggested the Board members review the report and if anyone has any questions, to please let her know.

This report is provided for informational use only. No action by the Board is required.

6) **Legislative Results; Review of SB1001 – Board Powers and Duties As Amended** – Mr. Leininger

Mr. Leininger indicated the Department initiated no legislation this year. He went over the four Bills impacting the Department and gave some background about each: HIV testing for inmates upon their departure from the Department; Inmate Workers at Rest Stops; Inmate Mandatory Savings Accounts; and Senate Bill 1001.

As to SB1001, in June of last year, the Governor's Commission on Reform and Restructuring began its work. Their overall Mission is to abolish and consolidate programs that are ineffective or duplicative and restructure state government to more efficiently deliver core services to Virginians. Prior to the November 17, 2010, Board meeting, the recommendations on consolidation and elimination of various Boards and Commissions were presented in a report to the Governor. One recommendation was to abolish the Board of Corrections.

As a result of the Commission's recommendations on Boards and Commissions, each Secretariat was asked to review and provide any Code language changes required to effect those recommendations. The Department was tasked with reviewing and making changes on behalf of the Board. During its review, it was determined the Board does perform a critical function, particularly as relates to local correctional facilities, and should not be abolished but that some changes to its Powers and Duties should be considered because as they were currently set out, they did not reflect what the Board actually does. No input from or notice to the Board was given regarding this task. Ultimately, all changes proffered by the Department to the Secretary were adopted by the General Assembly during this past Session.

During the Board meeting several members voiced their displeasure at the way the task was handled. Reverend Paige questioned the wisdom of the actions of the Secretary, the

Governor and the Department stating strongly that this change removes citizens from the overview process. He stated that Legislators were deceived and misled, and he wanted it put on the record that the way this was done was wrong, that he does not agree with the Commission's recommendations and that he understands what the Commission was trying to do. Mr. Blank had an issue with the timing of the language change regarding §53.1-5.3 and believes it very strange that budget responsibilities were cut out just when the Board was ready to step up. It gave him enough pause and concern that he went to his Senators and Delegates and told them that wrong was being done. He suggested that the majority vote of the House in support of passage of the Bill did not reflect that everyone had thought this through. Mrs. Alksne also voiced her displeasure at the way this situation was handled.

The Director indicated that the timing might seem coincidental but the actions were not controlled by the Department, which was given a task and required to respond. He stated no one was in a position to oppose the Bill because it is what the Governor wanted. He stated the Department was not involved with the Commission, its findings or its report. He emphasized he did not lobby for dissolution of the Board and that any information the Board would like to see, he will ensure it is provided.

Mr. Boshart asked for what purpose and benefit Sheriffs and Superintendents would now come to speak with the Board about anything. He indicated that Sheriffs and Superintendents are feeling out of place. He also asked if the Board Committee structure should be looked at as a result of the changes. Director Clarke indicated the new Code language does not alter the Board's unchanged responsibilities, and the Board is still an arbiter of issues.

An item that generated a lengthy, lively discussion during the Liaison Committee was the Board's jail bed capacity report, which had been submitted to the General Assembly in the fall of last year. Apparently this report has caused considerable consternation as the bed capacity in any facility is something which impacts funding for Sheriffs and Superintendents. Though the jail bed capacity report issued by the Board was neutral, Senate Finance Committee staff elected to spin it to their own purposes, which led to unrest among Committee members because they feel that the upper echelon of the Department was not up front with them and that the report was altered by the Department for some nefarious purpose. Truth of the matter is the Department had nothing to do with the report or its submission. Mrs. Alksne wrote the report and knows it was not altered but stated it was hard to convince the Sheriffs and Superintendents of this and noted that such a conversation having occurred at all is indicative of a lack of trust between the Board and the Department and the Sheriffs and Superintendents.

Mrs. Alksne then stated her concern that the Department was not being straightforward in its explanation as to what had really occurred with the Bill. Mr. Blank indicated the Director said the changes had nothing to do with the timing of the Board's questions but has a hard time believing that. Reverend Paige stated he understands the dilemma and feels the Department is being set up for a fall.

The Director closed the discussion by stating he appreciates everyone's comments and by noting communication could have been better and the Department will work on this.

In that vein, either he or Mr. Leininger will be sitting in on the Liaison Committee in order to improve communication, and other efforts will be made by the Department to help the Board feel included in what is going on within the Department.

Mr. Blank went back to the fact that if Sheriffs and Superintendents cannot come to the Board directly or indirectly about the budget, who can they go to? Ms. Scott clarified that the Department has nothing to do with the budget of any Sheriff or Superintendent. The closest involvement the Department has with anything to do with jail funding is after the Board approves a jail construction project for reimbursement and the review process is concluded by the Department. And then, it is only to send a letter to Treasury to release the funds. She emphasized there is no direct monetary impact on the Department as a result of such approval; we do not house the funds. Treasury does.

Mr. Leininger advised he is looking at all of the Board Policies and Department Procedures to determine what changes will be needed as a result of the language change. Mr. Blank's request to have a Board member sit through this review was noted. Further information on this review will be forthcoming.

Chairman Decker closed the comments at this time. No Board action is required.

7) **Proposed Board Resolution Recognizing Raymond W. "Bobby" Mitchell**

A sample Resolution to recognize Bobby Mitchell was provided to the Board members prior to the meeting. When asked if any Board member had any changes or additions, there were no comments so it was requested that a final Resolution be prepared for presentation to Mr. Mitchell's family. Mr. Decker asked that the family be contacted and invited to attend a presentation at some time in the future. The Board Office will take care of this request.

II. Public/Other Comment (Mr. Decker)

There were no members of the general public present to address the Board.

III. Presentations (Ms. Scott)

1) **Presentation on 2012-14 Budget Process**

Ms. Scott presented an outline of key dates for the 2012-14 budget process. She briefly explained the actions required. There were no questions or comments. No Board action is required.

2) **Corrections Officer Vacancy Rates as of January 31, 2011**

This information was provided for review and discussion purposes only. No Board action is required.

IV. Liaison Committee (Mr. Osborne)

Mr. Osborne enquired if the former Chatham property, which was to have been transferred from DGS to the Sheriff of Pittsylvania County, had indeed been transferred. The Board approved the transfer to DGS for this purpose back in May of 2009. Apparently this transfer had been held up due to some issues between DGS and the County but the transfer is now proceeding. He also asked about the status of the Tazewell Unit 31 property; if any interest had been noted. According to Ms. Scott, nothing has been received indicating there is any interest. Mr. Osborne asked if the Department had not received an inquiry from the Tazewell County Board of Supervisors and Ms. Scott indicated it has not. He stated he will check with the Board of Supervisors on this.

Mr. Osborne then reported that the Committee discussed vacant bed space, funding and budget issues, construction updates and the naming of the Grayson facility. He indicated the population stands at 27,280 with 19,801 inmates in local jails and the out-of-compliance figure is approximately 3,600. He noted that James River Correctional Center will be closed by the end of March.

He reported that Sheriff Morgan from Newport News led the discussion about communication between the Sheriffs and the Department and how dissatisfied the Sheriffs were. Mr. Osborne also noted that when he was previously on the Board, all members showed up at 9:30 and sat in on all of the Committee meetings and there was no "he said, she said." Everyone wanted to be here and it resulted in a better Board meeting, and he encouraged that if anyone wants to do that, they would be welcomed. He commended Director Clarke on his handling of a volatile discussion during the Liaison Committee and that the Committee was now in synch with the Sheriffs. He noted he personally is on several committees to lobby the General Assembly and this affiliation has proven successful. He encouraged other members to speak with their Delegates and Senators. He emphasized we need money to get the new prison open and that perhaps those out-of-compliance inmates could be used to fill it.

There were no questions. Mr. Osborne's report was concluded. No Board action was required.

V. Administration Committee (Mr. Boshart)

1) Internal Audit Quarterly Report

The Inspector General reviewed the report with the Committee, updating on the status of financial/compliance audits, operational audits, financial and facility contract audits, IT audits, IT security audits and special projects/audit assistance, follow-up audits and operating issues statewide.

There were no comments or questions on the report. No Board action was required at this time.

VI. Correctional Services Committee Report/Policy & Regulations (Mrs. Alksne)

The following items were reviewed and discussed:

1) **Follow Up on Stellar Residential Services, Inc.**

Staff from the Inspector General's office is to be commended on its work with the facility since last year. The Inspector General was noted that Stellar is up and running; they have a budget in place; there is no co-mingling of funds; and financial statements are available.

The facility remains on probation. No action by the Board is required at this time.

2) **Board Motion to Approve Suspension of 2011 Unannounced Inspections**

Section 53.1-68 of the Code of Virginia authorizes the Board of Corrections to grant suspensions of annual Life, Health and Safety Inspections if full compliance with Standards is attained during the jail's triennial certification audit. Since January 1, 2011, three jails and one lockup have achieved 100% compliance with Board Standards. They are: Alleghany/Covington Regional Jail, Western Tidewater Regional Jail, Northern Neck Regional Jail and Highland County Lockup.

Therefore, by *MOTION* duly made by Mrs. Alksne and seconded by Mr. Washington:

“The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2011 annual inspection for the Alleghany/Covington, Western Tidewater and Northern Neck Regional Jails and the Highland County Lockup.”

The Motion was unanimously *APPROVED* by verbally responding in the affirmative (Alksne, Boshart, Cabacoy, Osborne, Paige, Washington).

There were no questions and there was no further discussion. Mr. Blank's vote was not considered as he was not physically present today. There were no opposing votes. The Chairman then voted his approval of the Motion. There is one vacancy. The Motion carried.

3) **Board Motion to Approve Waiver Request by Blue Ridge Regional Jail/Halifax Adult Detention Center to Standard 6VAC15-40-1100 (Fire Safety Inspection)**

During the annual unannounced inspection of this facility, it was found that the annual fire safety inspection had not been performed as required under 6VAC15-40-1100. However, it was ascertained that the facility had written the Fire Marshal reminding them that the fire safety inspection would be coming due but to no avail. As a result of the fact that the facility tried to comply, it is recommended that the Blue Ridge Regional Jail Authority be granted a one-time waiver to Standard 6VAC15-40-1100 for the Halifax Adult Detention Center.

Therefore, by *MOTION* duly made by Mrs. Alksne and seconded by Mr. Washington:

“That the Board of Corrections grants a one-time waiver to the Blue Ridge Regional Jail Authority for the Halifax Adult Detention Center to Standard 6VAC15-40-1100.”

The Motion was unanimously *APPROVED* by verbally responding in the affirmative (Alksne, Boshart, Cabacoy, Osborne, Paige, Washington).

There were no questions and there was no further discussion. Mr. Blank’s vote was not considered as he was not physically present today. There were no opposing votes. The Chairman then voted his approval of the Motion. There is one vacancy. The Motion carried.

4) **Waiver Request by Chesapeake City Jail to Standards 1.4, 2.1.B.1. and 2.1.B.2. of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities Without Submission To and Approval of a Planning Study or Community-Based Corrections Plan by the Board**

The Chesapeake City jail has been experiencing a severe overcrowding situation for some time so the City and the Sheriff’s Office explored the option of an addition to its existing jail. However, due to the costs involved and as a result of the current economic downturn, it was determined that the expenditure of several hundred million dollars could not be justified at this time and other alternatives were sought. They ended up constructing temporary facilities without adhering to the Board’s *Standards for Planning, Design, Construction and Reimbursement of Local Facilities*. Those units cost the City somewhere in the neighborhood of \$6 million.

Upon notice that these temporary buildings had been constructed, the Board wrote the Sheriff in July of 2010 indicating the required Community-Based Corrections Plan and Planning Study had not been received and reminding that construction must adhere to Board Standards. The City took steps to rectify the situation but it appears the Department still has not received and reviewed all required documentation and nothing has been presented to the Board for approval. Now the Sheriff is requesting a waiver to three Standards.

For the record, the facility can be described as a tent constructed of flammable materials that does not meet Standards. There is no solid roof; there are no security locks, doors, window frames, drains, et cetera. The locality has not submitted its Planning Study or Community-Based Corrections Plan and there are no exceptions for that. There was a discussion as to whether the tent could meet security requirements and it has been determined that there is not enough information available at this time to make such an assessment. It was noted that if such a waiver request is entertained for this situation, others will come forward. The question comes down to this: does the Board want to make an exception because the money has been spent and there is severe overcrowding.

After much discussion, Senior Assistant Attorney General Alan Katz opined that Code §53.1-82.1 prohibits the Board from approving the waiver request as the construction was not proper and does not conform and the Board cannot approve the request, period, and cannot grant the waiver.

Therefore, the Chairman will write a letter to the Sheriff and will advise of the Code section that precludes the Board from considering the waiver request. At the May meeting, staff will provide a recommendation as to what the locality might possibly be able to do.

As a result of the discussion and due to the opinion of the Assistant Attorney General, no official Board action was taken on the waiver request.

5) **Board Motion to Approve Revised Planning Study for Meherrin River Regional Jail for New Construction at Mecklenburg County Jail**

This is a request from the Meherrin River Jail Authority, consisting of the Counties of Brunswick, Dinwiddie and Mecklenburg, to include approval for construction of an 80-bed facility in Mecklenburg to the already approved 400-bed facility in Brunswick at no additional cost to the Commonwealth. Originally, the Authority's plan was to only construct a 400-bed facility in the County of Brunswick. Funding for construction funding reimbursement of up to 50% of the estimated eligible costs for the facility in Brunswick was approved by the Board in 2009.

This is a revenue neutral request by a facility who has played by the rules. Staff is recommending consideration of this request.

Therefore, by *MOTION* duly made by Mrs. Alksne and seconded by Rev. Paige:

“The Board of Corrections approves the request from the Meherrin River Jail Authority to construct a new, 80-bed satellite facility in Mecklenburg County in addition to the facility in Brunswick, both of which are a part of the Meherrin River Regional Jail. This approval recognizes the previously approved total eligible cost of \$64,378,938 or which up to 50% or \$32,189,469 would be the State’s reimbursement for both facilities as a total project. Such reimbursement is subject to the availability of funds and compliance with Board Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (1994) and Sections 53.1-80 through 82 of the Code of Virginia.

The Motion was unanimously *APPROVED* by verbally responding in the affirmative (Alksne, Boshart, Cabacoy, Osborne, Paige, Washington).

There were no questions and there was no further discussion. Mr. Blank's vote was not considered as he was not physically present today. There were no opposing votes. The Chairman then voted his approval of the Motion. There is one vacancy. The Motion carried.

Before Mrs. Alksne closed this portion of her report, she noted the committee revising the Construction Standards continues its work, which has been ongoing since last January. The committee meets regularly and should be finished in the next few months.

6) **Compliance and Accreditation Certifications Section:**
State/Local/Regional/Community Facilities

On behalf of the Committee, Mrs. Alksne presented the following certification recommendations for consideration by the Board:

Unconditional Certification as a result of 100% compliance for Blacksburg Town Lockup, Highland County Lockup and Alleghany/Covington Regional Jail;

Unconditional Certification as a result of 100% compliance for Western Tidewater Regional Jail to include male and female juveniles in accordance with Section 16.1-249 of the Code of Virginia;

Unconditional Certification as a result of 100% compliance for Northern Neck Regional Jail and Blackstone Town Lockup to include male and female juveniles in accordance with Section 16.1-249.G of the Code of Virginia;

And Unconditional Certification for the Page County Jail.

Therefore, by *MOTION* duly made by Mrs. Alksne and seconded by Mr. Boshart, the Board *APPROVED* the above recommendations by responding in the affirmative (Alksne, Boshart, Cabacoy, Osborne, Paige, Washington).

There were no questions and there was no further discussion. Mr. Blank's vote was not considered as he was not physically present today. There were no opposing votes. The Chairman then voted his approval of the Motion. There is one vacancy. The Motion carried.

7) **Compliance and Accreditation Unannounced Inspections Section:**
Local/Regional Facilities

Facilities achieving 100% compliance with Life, Health and Safety Standards during their unannounced annual inspections were listed in bold on the agenda.

This is provided for informational purposes only. No action by the Board is required.

8) **Policy & Regulations**

There was nothing to review this month

VII. Closed Session

No Closed Session was held.

VIII. Other Business

Director Clarke stated that James River Correctional Center will be officially closed on March 25. There are only 50 inmates remaining. The Department is currently going through the budget process for this cycle. The Department is \$10.9 million short, which money was not allotted by the General Assembly, and the Department is also short \$16.1 million for medical services but it did receive \$8.1 million and it will somehow have to get the additional \$8 million and is reviewing its medical contracts. The Department is facing many other challenges. It is overcrowded and with chronic overcrowding comes malfunctions in other areas of the agency. He is keeping an eye on this.

He reported the Department is very busy rolling out its re-entry initiative. A lot of work has been done by a lot of staff as well as by many members of the community. This morning, the Director met with citizens working with the Department on re-entry across the Commonwealth. As the Board was wondering how it can assist with the re-entry effort, the Director stated it would be helpful to get indications of what is faced locally, champion the issues from your communities, find out what struggles are out there and lend your support

It was suggested to again have the Department's re-entry coordinator share the Department's re-entry plan with the Board. This will happen at the May meeting.

IX. Board Member/Other Comment

Reverend Paige indicated he is happy the Director is interested in re-entry. He noted the legislature passed the Bill for HIV, which will help save lives and money. He had a few minutes with the Director earlier in the day and discussed GEDs and how they relate to re-entry because oftentimes inmates come out with the same intellectual position they went in with. It was emphasized that education is a great tool for reform and will be a priority in the future.

X. Future Meeting Plans (provided for informational purposes)

The May 18, 2011, meetings are scheduled as follows:

Liaison Committee – 9:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;
Correctional Services/Policy & Regulations Committee – 10:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

Administration Committee – 12:30 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

And Board Meeting – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia.

XI. Adjournment

There being nothing further, by **MOTION** duly made by Mr. Washington, seconded by Mr. Osborne and **APPROVED** by verbally responding in the affirmative (Alksne, Boshart, Cabacoy, Osborne, Paige, Washington), the meeting was adjourned.

There were no questions and there was no further discussion. Mr. Blank's vote was not considered as he was not physically present today. There were no opposing votes. The Chairman then voted his approval of the Motion. There is one vacancy. The Motion carried.

(Signature copy on file)

PETER G. DECKER, III, CHAIRMAN

B. A. WASHINGTON, SR., SECRETARY