

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	August 28, 2013
Location	6900 Atmore Drive Richmond, Virginia
Presiding.....	Peter G. Decker, III, Chairman
Present.....	Felipe Q. Cabacoy Linda D. Curtis Ann Gardner William E. Osborne Carl R. Peed
Absent	Kurt A. Boshart Reverend Anthony C. Paige Cortland C. Putbrese

1:00 p.m., Wednesday, August 28, 2013
6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. Chairman Decker welcomed Mrs. Ann Gardner, the newest member of the Board who is a Deputy Commonwealth's Attorney in Alleghany County. Mrs. Gardner thanked the Chairman and stated she is glad to be here and is looking forward to working with everyone.

The Chairman asked attendees in the room to introduce themselves, after which he welcomed Chief Deputy Director Debra D. Gardner, who thanked the Chairman for the greeting and stated the Director sent his regards but would not be attending the meeting today due to a scheduling conflict.

Roll call was taken by Mrs. Woodhouse. Three members were absent as indicated above. The Chairman noted the remaining Board vacancies had been filled. Reverend Paige and Mr. Putbrese, who is an attorney in Richmond, will be at the September meeting.

I. Board Chairman (Mr. Decker)

1) Board Motion to Approve July Board Minutes

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

By **MOTION** duly made and seconded, the July Board Minutes were **APPROVED** by verbally responding in the affirmative (Cabacoy, Curtis, Osborne, Peed).

Messrs. Boshart and Putbrese and Reverend Paige were absent. Mrs. Gardner's vote was not considered as she was not present at the July meeting.

There were no opposing votes. The Chairman voted his approval of the Motion. The Motion carried.

2) Appointment of Nominating Committee for Election of Board Officers

Mr. Decker appointed Mrs. Curtis and Messrs. Cabacoy and Peed to comprise the nominating committee. The committee members met and arrived at their slate of Board officers, which they presented to the membership: Peter Decker as Chairman, Kurt Boshart as Vice Chairman and Linda Curtis as Secretary.

By **MOTION** duly made by Mrs. Curtis and seconded by Mr. Osborne, the slate of officers was **APPROVED** as presented by verbally responding in the affirmative (Curtis, Cabacoy, Gardner, Osborne Peed).

Messrs. Boshart and Putbrese and Reverend Paige were absent. There were no opposing votes. The Chairman voted his approval of the Motion. The Motion carried.

II. Public Comment

No members of the general public were present.

III. Liaison Committee (Mr. Osborne)

Mr. Osborne indicated the meeting was short with only a few members in attendance. He reported the out-of-compliance number at 4,729 and that River North is scheduled to open on October 1, and all Board members have been invited to the Grand Opening to be held on September 25, 2013.

Mr. Osborne stated there had been a discussion about the proposed Board Standards involving TB Testing and PREA Compliance and that there was more discussion regarding mental health issues affecting local jails.

There were no questions or comments. The Chairman thanked Mr. Osborne for his report. No Board action was required.

IV. Administration Committee Report

No Administration Committee meeting was held.

1) Board Motion to Approve Request for Additional 0.198 Acres at Powhatan Correctional Center to be Declared Surplus for Transfer to Powhatan County; Increase Previously Approved Declaration of Surplus from 2.008 Acres (May, 2002) to 2.206 Acres

The original declaration of surplus by the Board on May 15, 2002, indicates Shiloh Baptist Church was to use the property to expand its cemetery. The Department of General Services (DGS), upon receiving the Board Motion, indicated they could not transfer the property directly to the church. DGS has now worked out a transfer of the property to Powhatan County, adjusted to allow the parcel access to the road running in front of the church. By this transfer, Powhatan County can now transfer the property to Shiloh Baptist Church.

Therefore, by **MOTION** duly made by Mr. Decker and seconded by Mrs. Curtis, the Board **APPROVED** the request by verbally responding in the affirmative (Cabacoy, Curtis, Gardner, Osborne, Peed) and stated the following for the record:

“Pursuant to Section 53.1-18 of the Code of Virginia and as requested by the Department of General Services, I move that the Board approves the surplus declaration of 0.198 acres adjacent to the previously surplused 2.008 acres at the Powhatan Corrections Center on May 15, 2002. The request has been made by the Department of General Services to increase the acreage so that the original transfer of 2.008 acres is no longer a land-locked parcel. The Director of the Department of Corrections is hereby delegated the authority to finalize the details of and approval for the surplus declaration and property transfer and may execute all documents in furtherance of the conveyances.”

There were no opposing votes. Messrs. Boshart and Putbrese and Reverend Paige were absent. The Chairman voted his approval of the Motion. The Motion carried.

V. Correctional Services Committee Report/Policy & Regulations (Mr. Decker)

**1. Compliance and Accreditation - Certifications Section:
State/Local/Regional/Community Facilities**

a-b) A discussion on the Board’s Community Residential Standards, especially the Standard regarding an independent financial audit having to be performed on an annual basis, was held. This is the Standard that led to Rubicon, Inc., being decertified by the Board. It was reported that Rubicon has had the audit in question completed and hopes to have its final report in time for the September Board meeting. No action was required at this time.

Mr. Decker then reported the following Committee recommendations for Board approval:

- c) Unconditional Certification as a result of 100% compliance for Surry County Lockup to include male and female juvenile juveniles in accordance with §16.1-249 of the Code of Virginia; and**
- d-f) Unconditional Certification for Fauquier County Adult Detention Center, Danville City Jail and Dorcus House.**

By **MOTION** duly made by Mr. Decker and seconded by Mrs. Curtis, the Board **APPROVED** the above recommendations by verbally responding in the affirmative (Cabacoy, Curtis, Gardner, Osborne, Peed).

There were no questions and there was no discussion. There were no opposing votes. Messrs. Boshart and Putbrese and Reverend Paige were absent. The Chairman voted his approval of the Motion. The Motion carried.

2. Local Facilities Section – Staffing/Funding and Unannounced Inspections:
Local/Regional/Community Facilities

a) Proposed Board Motion to Deny/Grant Appeal by Rappahannock County Jail for Standard 6VAC15-40-560; Meals Prepared, Delivered and Served under Direct Supervision of Staff

This item was tabled until the September meeting.

b) Board Motion to Grant Appeal by Page County Jail on Standard 6VAC15-40-420: Transfer Summaries of Medical Records; and Standard 6VAC15-40-1100: Annual Fire Safety Inspection

On July 31, 2013, Local Facilities Manager Jef Sevenker conducted an annual Life, Health, Safety Inspection of the Page County Jail. During the inspection, it was determined that the jail was out of compliance with two Standards as indicated above.

During the last revision of the Standards, 6VAC15-40-420 was changed to a Life, Health, Safety Standard, which means it is now included in the annual LHS Inspection instead of only the Triennial Audit. Compliance documents say to review the medical summary sheets. Page County's argument is that it does not say review **completed** medical summary sheets.

According to staff, they have never kept copies of the completed sheets and have not been found out of compliance in the past. However, documentation from the February, 2011, audit shows that medical transfer sheets were reviewed and, therefore, must have been available. It was recommended that the Board deny the out of compliance finding.

And, the jail received a fire safety inspection (Standard 6VAC15-40-1100) in July of 2012. It did not receive an inspection prior to the 12-month time period required by the Standard.

Documentation was provided that shows several attempts to ensure that the inspection was done on time. However, the Fire Marshals were reassigned twice within that period and were unable to complete the inspection in a timely manner. The inspection was completed on August 1, 2013, one day after the required time period. Due to the good-faith effort by Page County, it was recommended that the Board grant a one-time waiver to the Standard. Therefore,

By **MOTION** duly made by Mr. Decker and seconded by Mr. Osborne and seconded by Mr. Osborne, the Board **GRANTED THE APPEAL** to both Standards by verbally responding in the affirmative (Cabacoy, Curtis, Gardner, Osborne, Peed).

There were no questions and there was no discussion. There were no opposing votes. Messrs. Boshart and Putbrese and Reverend Paige were absent. The Chairman voted his approval of the Motion. The Motion carried.

c) **Board Motion to Approve Planning Study for Chesapeake City Jail**

This was a request from the City of Chesapeake for funding for reimbursement for a 192-bed expansion of the Chesapeake City Jail. The Planning Study proposes the construction of a separate, single story, two-level building on property adjacent to the existing facility. This building would house 192 minimum-security inmates for the Chesapeake City Jail.

The expansion includes associated special-purpose cells and programming space. Intake accommodations will be made in the existing facility. The property on which the expansion is to be built is currently utilized by the Chesapeake Juvenile Detention Home for recreation, so relocation of the recreation area and maintenance building for the juvenile facility is a part of the project. Upon completion of this expansion, the Chesapeake City Jail has indicated it will discontinue the use of the temporary facilities previously erected by Proteus on the jail site.

It was recommended to approve the City of Chesapeake's Planning Study. Therefore,

“The Board of Corrections approves the request from the City of Chesapeake for State jail funding for construction reimbursement for a 192-bed expansion of the Chesapeake City Jail. This approval recognizes a total eligible cost of \$20,522,691, of which up to 25% or \$5,130,673 would be the State reimbursement. 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.”

By **MOTION** duly made by Mr. Decker and seconded by Mrs. Curtis, the Board **APPROVED** the above by verbally responding in the affirmative (Cabacoy, Curtis, Gardner, Osborne, Peed).

There were no questions and there was no discussion. There were no opposing votes. Messrs. Boshart and Putbrese and Reverend Paige were absent. The Chairman voted his approval of the Motion. The Motion carried.

d) **Board Motion to Approve Planning Study for Hampton Roads Regional Jail**

This was a request from the Hampton Roads Regional Jail Authority for reimbursement for a 348-bed expansion of the Hampton Roads Regional Jail.

The Hampton Roads Regional Jail serves the Cities of Hampton, Newport News, Norfolk and Portsmouth. The City of Portsmouth is considering closing its local

jail and increasing the number of inmates being held in the Hampton Roads Regional Jail, which would need to expand to accommodate the increased number of inmates. The Planning Study proposes the construction of a 348-bed expansion for the Hampton Roads Regional Jail to house the inmate population for the involved localities. This expansion adds housing for all custody levels and associated programming space. The facility, when originally built, was designed to accommodate expansion. The expansion adds a unit of three, two-story/four level pods to one corner of the facility and one, two story/four level pod to an existing housing unit.

It was recommended to approve the Hampton Roads Regional Jail Authority's Planning Study. Therefore,

“The Board of Corrections approves the request from the Hampton Roads Regional Jail Authority for State jail funding for construction reimbursement for a 348-bed expansion and renovation of the Hampton Roads Regional Jail. This approval recognizes a total eligible cost of \$52,333,352 of which up to 50% or \$26,166,676 would be the State reimbursement. 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.”

By *MOTION* duly made by Mr. Decker and seconded by Mrs. Curtis, the Board *APPROVED* the above by verbally responding in the affirmative (Cabacoy, Curtis, Gardner, Osborne, Peed).

There were no questions and there was no discussion. There were no opposing votes. Messrs. Boshart and Putbren and Reverend Paige were absent. The Chairman voted his approval of the Motion. The Motion carried.

e) **Board Motion to Approve Planning Study for Southwest Virginia Regional Jail**

This was a request from the Southwest Virginia Regional Jail Authority for funding for reimbursement of an increase in scope of the previously approved 512-bed expansion and renovation of the Southwest Virginia Regional Jail.

The Southwest Virginia Regional Jail serves the Counties of Russell, Smyth, Washington, Lee, Scott, Wise, Buchanan, Dickenson, Tazewell and the City of Norton. The Regional Jail has facilities located at four sites: Abingdon, Haysi, Duffield and Tazewell. The Tazewell facility is primarily a pretrial facility and no work is being done at that facility. The original approved Planning Study was for the construction of a 512-bed expansion and renovation of the Southwest Virginia Regional Jail to house the inmate population for the involved localities.

The increase in scope is for the incorporation of upgraded security electronics in the existing portion of the facility. Without this upgrade, staffing may have to be

increased, operations would be negatively affected and additional square footage would have to be built to accommodate essentially two separate security systems.

It was recommended to approve the Southwest Virginia Regional Jail Authority's Planning Study. Therefore,

“The Board of Corrections approves the request from the Southwest Virginia Regional Jail Authority for State jail funding for construction reimbursement for an increase in scope of the project of the 512-bed expansion and renovation of the Southwest Virginia Regional Jail. This approval recognizes a total eligible cost of \$36,287,560, of which up to 50% or \$18,143,780 would be the State reimbursement. 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.”

By *MOTION* duly made by Mr. Decker and seconded by Mr. Cabacoy, the Board *APPROVED* the above by verbally responding in the affirmative (Cabacoy, Curtis, Gardner, Osborne, Peed).

There were no questions and there was no discussion. There were no opposing votes. Messrs. Boshart and Putbrese and Reverend Paige were absent. The Chairman voted his approval of the Motion. The Motion carried.

3. Policy & Regulations

a) Board Motion to Approve Revisions to Current Board By-Laws

The proposed changes were reviewed and it was decided to move forward with approval. Therefore, by *MOTION* duly made by Mrs. Curtis and seconded by Mr. Cabacoy, the Board *APPROVED* the changes to the Board By-Laws by verbally responding in the affirmative (Cabacoy, Curtis, Gardner, Osborne, Peed).

There were no questions and there was no discussion. There were no opposing votes. Messrs. Boshart and Putbrese and Reverend Paige were absent. The Chairman voted his approval of the Motion. The Motion carried.

Mr. Bruce will present the new document for signature at the September meeting.

b) Board Motion to Initiate the Proposed Stage of Regulatory Process to Amend Regulations Regarding Tuberculosis Skin Test Requirements and Requiring Compliance with Part 115 of Title 28 of the Code of Federal Regulations, Prison Rape Elimination Act (PREA) National Standards to 6VAC15-40 Minimum Standards for Jails and Lockups

Mr. Bruce reported that this is the next required step in the regulatory process. This

action was directed by the Board at its March meeting to continue the formal process to add language to 6VAC-15-40 regarding tuberculosis (TB) skin testing requirements and requiring compliance with Part 115 of Title 28 of the Code of Federal Regulations, *Prison Rape Elimination Act (PREA) National Standards*. The Notice of Intended Regulatory Action (NOIRA) stage has been completed with publication in the Virginia Register of Regulations on June 17, 2013, followed by a 30-day comment period. No comments were received. Therefore,

“The Board moves to initiate the Proposed stage of the regulatory process to amend regulations regarding tuberculosis (TB) testing requirements and requiring compliance with Part 115 of Title 28 of the Code of Federal Regulations, *Prison Rape Elimination Act (PREA) National Standards*, to 6VAC15-40 *Minimum Standards for Jails and Lockups* in accordance with the Virginia Administrative Process Act.”

By *MOTION* duly made by Mr. Decker and seconded by Mr. Cabacoy, the Board *APPROVED* the above by verbally responding in the affirmative (Cabacoy, Curtis, Gardner, Osborne, Peed).

There were no questions and there was no discussion. There were no opposing votes. Messrs. Boshart and Putbresi and Reverend Paige were absent. The Chairman voted his approval of the Motion. The Motion carried.

Because of the uncertainty and confusion relating to PREA implementation and application of PREA audit guidelines as they apply to jails and the need to move forward with the TB testing requirement language change as soon as possible, the Board approved to add the TB testing language to the Department’s Compliance Documentation to read: The Department accepts into the Compliance Documentation a minimum tuberculosis testing requirement of one time per year for inmates held more than seven days.

VI. Closed Session

No Closed Session was held.

VII. Other Business

Mr. Katz brought the Board up to date on court cases in the news.

VIII. Board Member Comment (Mr. Decker)

Board members made general comments.

IX. Future Meeting Plans (provided for informational purposes)

The September 18, 2013, 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;
Board Meeting – 1:30 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia.

X. Adjournment

There being nothing further, by **MOTION** duly made by Mr. Osborne, seconded by Mr. Cabacoy and **APPROVED** by verbally responding in the affirmative (Cabacoy, Curtis, Gardner, Osborne, Peed), the meeting was adjourned.

There were no questions and there was no further discussion. There were no opposing votes. Mrs. Alksne, Mr. Blank and Reverend Paige were absent. The Chairman then voted his approval of the Motion. The Motion carried.

(Signature copy on file)

PETER G. DECKER, III, CHAIRMAN

LINDA D. CURTIS, SECRETARY