

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	September 17, 2008
Location	6900 Atmore Drive Richmond, Virginia
Presiding	Sterling C. Proffitt, Chairman
Present	James H. Burrell Peter G. Decker, III Jacqueline F. Fraser Raymond W. Mitchell
Absent	Gregory M. Kallen James R. Socas W. Randy Wright Vacant

1:00 p.m., Wednesday, September 17, 2008
6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. The roll was called by Mrs. Woodhouse. Mr. Proffitt noted a quorum was present. Three members were absent, as indicated during the verbal roll call and as noted above. There is one vacancy.

I. Board Chairman (Mr. Proffitt)

1) Welcome to Newest Board Member

The Chairman announced that newly appointed Petersburg Sheriff Vanessa R. Crawford declined the Board appointment. It is hoped that another appointment is made in time for the new member to be present at the October meeting.

2) Presentation to Mr. Jack R. Dewan; Proposed Motion to Include Resolution to Mr. Jack R. Dewan in the Minutes of the Board

The Chairman welcomed retired Mr. John “Jack” R. Dewan and Liaison Committee Chairman Christopher R. Webb and asked that both come forward for a presentation.

The Chairman congratulated Mr. Dewan on his most recent retirement from the Board’s Liaison Committee. He stated Jack has been a colleague for many years and will be missed. Mr. Webb thanked Jack for his years of service to the Liaison Committee and echoed the Chairman’s sentiments. Jack thanked the Chairman and Mr. Webb for their kind words. Jack noted that the Liaison Committee has gone a long way toward bridging the gap between the Department and localities, and he is proud to have been part of the committee membership for so many years.

The Board Chairman then presented to and read into the record a Resolution for Jack Dewan:

RECOGNIZING JACK R. DEWAN UPON HIS DEPARTURE FROM THE LIAISON COMMITTEE OF THE VIRGINIA BOARD OF CORRECTIONS

On Motion of the Virginia Board of Corrections, duly made and seconded, the following Resolution was adopted:

WHEREAS, Jack R. Dewan has served the Commonwealth faithfully since December 21, 1992, when he was selected for appointment to the Liaison Committee of the Virginia Board of Corrections from then Board Chairman Peter G. Decker, Jr. Jack R. Dewan attended his first meeting as a member of the Liaison Committee sometime in early 1993; and

WHEREAS, Jack R. Dewan has served the Board, the Committee and the citizens of the Commonwealth in a non-partisan manner since that time under five Governors and eight Board Chairmen with marked integrity, pursuing the letter and intent of the law; and

WHEREAS, during his more than 16 years as a member in good standing of the Liaison Committee, Jack R. Dewan, attended and actively participated in as many scheduled meetings as practicable, all the while actively administering the duties of the office of Superintendent of Western Tidewater Regional Jail until his retirement in 2002 and subsequently, as Executive Director of the Virginia Association of Regional Jails; and

WHEREAS, during his many years as a member of the Board's Liaison Committee, Jack R. Dewan participated in many frank discussions regarding the treatment of inmates in local jails, understood the importance of his professional responsibility beyond the Liaison Committee and in so doing, became an active proponent of issues important to the Commonwealth, to the Board and to his fellow Committee members; and

WHEREAS, Jack R. Dewan announced his resignation from the Virginia Board of Corrections' Liaison Committee as a member in good standing in July, 2008.

NOW, THEREFORE BE IT RESOLVED, that the Virginia Board of Corrections, this 17th day of September, 2008, publicly recognizes the contributions of Jack R. Dewan to the Virginia Board of Corrections, the Virginia Department of Corrections and the citizens of the Commonwealth of Virginia;

AND, BE IT FURTHER RESOLVED, that the Board thanks him for his commitment to the Commonwealth and extends best wishes on his "retirement;"

AND, BE IT FINALLY RESOLVED, that a copy of this resolution be presented to Jack R. Dewan and that this resolution be permanently recorded and retained in the papers of the Board of Corrections, Commonwealth of Virginia.

/s/

James H. Burrell; Peter G. Decker, III; Jacqueline F. Fraser; Gregory M. Kallen; Raymond W. Mitchell; Sterling C. Proffitt; James R. Socas; W. Randy Wright and Christopher R. Webb, Liaison Committee Chairman.

The **MOTION** was duly made by Mr. Burrell and seconded by Ms. Fraser. The Resolution was **APPROVED** as presented by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

3) **Motion to Approve May Board Minutes**

The Chairman called for a Motion to approve the May Board Minutes, which approval was deferred from the July meeting.

By **MOTION** duly made by Ms. Fraser and seconded by Mr. Mitchell, the minutes were **APPROVED** as presented by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

4) **Motion to Approve July Board Minutes**

The Chairman indicated there would be no vote on the proposed July Minutes as there must be a quorum of members present and voting at the current meeting who were present at the meeting whose activity is being voted on and this was not the case. This item will be revisited at the October meeting.

5) **Report of Nominating Committee/Election of Board Officers**

As only one Committee member and one alternate appointed to the Committee were present, this item has been deferred to the October meeting.

II. Public/Other Comment

The Chairman indicated there was no one present from the public to address the Board.

III. Presentation to the Board (Ms. Scott)

Recently the Board requested information regarding Geriatric Inmates. As a result, Ms. Helen Hinshaw with the Department's Research, Evaluation and Forecast Unit presented a brief overview of the Department's older inmate population. Coincidentally, the Department had already been tasked by the General Assembly with analyzing the

“comparative costs and benefits of state operation compared to contracting for privately operated minimum security assisted living or nursing facilities, or other appropriate facilities or programs for lower-risk, geriatric offenders” (*Item 378-B of the 2008 Appropriation Act*) and presents the following:

The Department uses three ways to define its aging population: 65 years and older; 50 to 64 years; and under 50 years. There is no one way to actually define a geriatric inmate but rather health problems and issues identify the services/resources required. The Department is legislatively required to meet the needs of all of its population and older inmates are not targeted for specialized services based on their age but on their needs. It was indicated that older inmates have longer stays and a higher percentage of older inmates have life sentences and many are not parole eligible.

Over the last 17 years, the 50-and-older confined population has increased six fold; from 715 in 1990 (5% of the 50-and-older population) to 4,678 in 2007 (12.2% of the 50-and-older population). During that same period, the 50-and-older new court commitments population has increased four fold; from 223 in 1990 to 1,028 in 2007. Based on the current forecast through FY14, the 50-and-older population being sentenced to the Department will grow annually from over 1,000 to over 1,200 inmates. The estimated future 50-and-older population confined to the Department will grow from 4,800 to over 5,400 inmates.

85 percent of inmates age 65 years and older and 66 percent of inmates age 50-64 years are incarcerated for a violent crime. This compares to only 61 percent of the younger inmates. The most common crime for older offenders is rape or sexual assault.

Males comprise 93 percent of the total Department population; females comprise 7 percent. The older population is predominantly male. The primary offense for females in the under 50 years and 50-64 years age group is Larceny/Fraud. The primary offense for females in the 65 years and older population is 1st Degree Homicide. 7.6 percent of the under 50 years, 5.4 percent of the 50-64 years and 2.6 percent of the 65 years and older are female. Older inmates have longer projected lengths of stay of approximately 18-19 years. A higher percentage of the older inmates have life sentences; many are not parole eligible.

64 percent of the under 50 years group are first-time offenders; 59 percent of the 50 to 64 years group are first-time offenders; 79 percent of the 65 years and older group are first-time offenders.

The average life expectancy in the United States is 77.6 years. 2.9 percent of the under 50 years group, 12.1 percent of the 50 to 64 years group and 49.8 percent of the 65 years and older group will not be released before age 75.

Almost half of the 50 and older inmate population are housed at the following facilities: Deerfield, Greenville, Powhatan, Brunswick and Buckingham. Deerfield Correctional Center houses the largest percentage of those inmates at 65 percent. Deerfield's current

mission has been in place since 1998. Over eight years, the facility has been expanded by almost 600 beds and 194 staff members have been added to cover this expansion. 65 percent of Deerfield's population is 50 and older with an average age of 58 and with a projected length of stay of 18 years. The physical layout of the facility indicates it is one-story and completely handicapped accessible. There is programming available to inmates of all ages and needs.

Conditional geriatric release clause allows certain inmates who were not convicted of a Class 1 felony to apply for early release. To be eligible to apply, the inmate must be at least 60 and have served at least 10 years or must be at least 65 and have served at least 5 years. In 1999, 201 inmates were eligible, 23 applied and none were granted. In 2007, 489 inmates were eligible, 52 applied and two were granted.

To make a cost comparison, it should be noted that most medical expenditure data is not available by age. However, the off-site portion of medical expenses is available by age through the Department's medical provider. Off-site costs are almost 23 percent of the total medical expenditures. Between FY03 and FY07, expenditures for medical ranged from 11.4 percent and 12.9 percent of total Department operating expenditures. The medical per capita cost for that period ranged from \$3,037 to \$4,059. The average annual off-site medical cost for inmates under age 50 is \$790 compared to \$3,350 for inmates who are 50 and older.

In FY08, the per capita cost to house an inmate at Deerfield was \$25,395 compared to \$24,870 for other major institutions in the Department. Deerfield's per capita cost includes hospital costs associated with housing an inmate at Deerfield. To compare, the annual cost of a semi-private nursing home bed in Richmond is \$66,430 or at least twice the per capita cost to house an inmate at Deerfield.

The challenge is for the Department to meet the needs of all its population, and there are several reasons why the Department may be the best provider of services to these offenders: the Department can provide elder care more economically than the private sector; the Virginia Parole Board is not likely to release these offenders; these offenders are very difficult to place in public facilities; and many have no family or outside support. In addition, the Department is able to provide diagnostic and disease prevention/care less expensively than the private sector and has recommended to the General Assembly a statewide correctional medical center, which would include surgery, radiology, medical oncology, dialysis and physical rehab, and which would allow access to a wider range of services to offenders.

In closing, several concerns were noted:

- Re-entry of geriatric offenders is a problem. Private community facilities have long waiting lists and usually refuse to consider anyone with a criminal history. Additional nursing homes or assisted living facilities run by the state, community-based or non-profit organizations may be a solution;
- Over the next six years, the Department's geriatric populations will increase;

- The Master Plan for Healthcare Services reports that female offenders are thought to have adequate medical and mental health capacity at Fluvanna Correctional Center for Women;
- System-wide support to enact the Department's Master Plan for Healthcare Service recommendations is needed. That Plan includes the addition of a 150-bed medical, surgical, infirmary beds and a comprehensive outpatient unit at Powhatan Correctional Center at a cost of \$171 million; the addition of an 80-bed skilled nursing unit, an 89-bed assisted living unit and a 42-bed Alzheimer's unit at Deerfield Correctional Center at a cost of \$24 million; the addition of a 42 Axis II unit at Greenville Correctional Center at a cost of \$13 million; and the addition of 1 28-bed acute unit, 81-bed residential unit and a 42-bed transitional unit at Marion Correctional Treatment Center at a cost of \$35 million.

In conclusion, the geriatric incoming and confined populations are expected to continue to increase. Health care costs have been, and will continue, increasing. Additional needs include enhanced medical staff, special housing and equipment, and staff training. Most of the geriatric population has been convicted of violent crimes and are very difficult to place with families or in the community in nursing homes or residential care. Few will be released under Geriatric release because of their risk to society and the violent nature of their committing crime. The Department is more cost effective than currently available community-residential or nursing home placement, even if it can be identified. And the Health Services Master Plan has carefully considered the male inmate health needs. This Plan must have continuing Departmental, Secretarial and Legislative support. After a brief comment, the Chairman thanked Ms. Hinshaw for her informative presentation. No Board action is required.

IV. Liaison Committee (Mr. Burrell)

Mr. Burrell gave a brief overview of the Committee meeting. He indicated that Mr. Wade Jewell was present from the State Compensation Board and had reported that Comp Board aid to localities has been reduced by \$50 million. And, Ms. Lipp with the Department's A&E Services Unit reported that the Grayson County project is moving along and is still estimated for completion in the spring of 2010. Asbestos abatement continues at the site, which abatement will cost an estimated 1 to 2 million additional dollars. And, Mr. Wilson with the Department's Compliance & Accreditation Unit reported the out-of-compliance number as being 1,369, with 324 out-of-state inmates currently housed within the Department.

There were no questions, comments or discussion of the report. The Chairman thanked Mr. Burrell for his report. No Board action is required.

V. Administration Committee (Mr. Decker)

1) CO Vacancy Rate Report

This document was provided for informational purposes only. No Board action was required.

2) FY 2008 4th Quarter Overtime Report for Year Ended June 30, 2008

Mr. Decker reported year-to-date overtime expenditures through June, 2008, totaled \$8,510,068. For the same period last year, that number was \$7,860,534. A number of factors continue to contribute to overtime costs; those being, vacancies, training requirements, disability, Military leave, weather-related conditions and security conditions at facilities.

Included in the year-to-date expenditures was \$617,728 in overtime costs related to the escape and capture of inmate Alonzo Logan. The Department had submitted a request to the Governor for supplemental funding to offset the cost of overtime incurred during the escape. In June, the Governor approved supplemental funding in the amount of \$488,238 as a partial offset.

3) Board Motion to Approve Resolution to Transfer Approximately 26.076 Acres of Land Located at Powhatan Correctional Center

The Department requests to transfer 26.076 acres of land at Powhatan Correctional Center to the Virginia State Police. The State Police, in conjunction with the Department of Games & Inland Fisheries and the FBI, will develop a firing range on the property. The Department will not have a financial investment in this project. Though this transfer has no huge benefit for the Department, it will be beneficial to the Commonwealth.

Therefore, the following *MOTION*, duly made by Mr. Decker and seconded by Ms. Fraser, was *APPROVED* as presented by verbally responding in the affirmative (Burrell, Fraser, Decker, Mitchell).

“Pursuant to Section 53.1-18 and as requested by the Department of Corrections, I move that the Board approve the Inter-Agency Transfer of approximately 26.076 acres of land located at the Powhatan Correctional Center. The property will be transferred to the Virginia State Police to be developed by the Virginia State Police as a firing range. The Director of the Department of Corrections may execute all documents in furtherance of the transfer of this property.”

There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Three members were absent and

there is one vacancy. The Motion carried. Mr. Proffitt thanked Mr. Decker for his report.

VI. Correctional Services Committee Report/Policy & Regulations (Ms. Fraser)

The Committee met on September 17, 2008. Board members Burrell, Fraser, Mitchell and Proffitt, along with several guests, were present to discuss several items.

1) **Discussion Regarding Pre-Trial Services Within a Community-Based Corrections Plan**

Mr. Dave Pastors of the Virginia Community Criminal Justice Association was present at the Committee meeting to discuss concerns about including the funding of pre-trial services in community-based corrections plans when submitted for approval. The Board will ask the Attorney General's Office to review Mr. Pastor's suggestion.

2) **Discussion Regarding Value Engineering Study Requirement for Small State Jail Construction Projects**

This item was tabled until the October meeting.

3) **Board Motion to Approve Suspension of Certain 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 has been attained in the jail's Triennial Certification Audit. Since the last approval, six jails and lockups have achieved 100% compliance with Board Standards. They are: Albemarle/Charlottesville Regional Jail; Amherst County Jail; Chesapeake Correctional Center; Fluvanna County Lockup; and Fairfax County Mason Street and Mount Vernon Lockups.

The Committee agrees with the assessment and recommends by *MOTION* duly made by Ms. Fraser and seconded by Mr. Burrell,

“The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2008 Annual Inspection for the Albemarle/Charlottesville Regional Jail; Amherst County Jail; Chesapeake Correctional Center; Fluvanna County Lockup; and Fairfax County Mason Street and Mount Vernon Lockups.”

The Motion was *APPROVED* by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There was no comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

4) **Board Motion to Amend Previously-Approved Community-Based Corrections Plan for Patrick County Jail**

In July, the Board approved the community-based corrections plan for Patrick County. That plan included the construction of 120 beds to meet the county's inmate population needs through 2022. However, due to the current economic situation, the locality has elected to construct the jail in two phases and is therefore seeking Board approval of its revised community-based corrections plan.

The first phase will be the construction of a 60-bed jail to meet the County's current needs. During that phase, core elements of the building, such as the kitchen, laundry and utilities, will be constructed to support a 120-bed jail. Other core areas will be constructed to allow for easy expansion at another time. It was indicated that the county will complete construction of the additional 60 beds as soon as it is economically feasible. Therefore,

“The Board of Corrections approves an amendment to the Patrick County Community-Based Corrections Plan to allow Patrick County to build a new facility with a rated capacity of 60 beds, that the core element shall be constructed to meet a rated capacity of 120 beds for the kitchen, laundry and utilities, and that Patrick County will construct the remaining 60 beds of rated capacity as soon as economically feasible.”

The *MOTION*, duly made by Ms. Fraser and seconded by Mr. Mitchell, was *APPROVED* as presented by verbally responding in the affirmative (Burrell, Fraser, Decker, Mitchell). There were no questions, comments or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

Patrick County Administrator Jay Scudder was present at the meeting with several County officials. He thanked the Board for its consideration and approval of the County's revised request.

5) **Board Motion to Approve Planning Study for 52-Bed Expansion of the City of Newport News Adult Detention Facility**

This is a request from the City of Newport News for approval of jail construction for the renovation of an acquired former juvenile detention home to house 52 additional inmates for the Newport News City Jail. This request is being submitted in light of the project's exemption from the current funding moratorium under Chapter 879, Item #388.A.4.c and in compliance with Chapter 879, #388.F.1 of the 2008 Acts of Assembly. This renovation project will use local funds only with no State funds being requested. Therefore,

By **MOTION**, duly made by Ms. Fraser, seconded by Mr. Burrell and verbally responded to in the affirmative (Burrell, Decker, Fraser, Mitchell),

“The Board of Corrections *APPROVES* the City of Newport News request for approval of the Planning Study for the Adult Detention Facility. This approval recognizes a cost of \$3,607,038, *which will be funded using local funds with no State participation*. Such renovation is subject to compliance with Board Standards and Sections 53.1-80 through 82 of the Code of Virginia.”

There were no questions, comments or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

6) **Board Motion to Approve Additional State Jail Construction Funding Reimbursement for the Western Virginia Regional Jail**

In September, 2005, the Board approved state jail construction funding reimbursement for the Western Virginia Regional Jail in the amount of \$35,476,807 or 50% of approved eligible costs of \$70,953,615. This project consists of a new, 605-bed, all custody level facility serving the Counties of Franklin, Montgomery and Roanoke and the City of Salem. Since that time, three additional funding issues have come to light, which the Authority would like the Board to consider:

A portion of the kitchen and laundry square footage and cost was noted as ineligible by staff since it is that which will be serving food and laundry services to other jails which are not a part of this Regional Jail; and,

the Authority initiated aggressive value engineering and cost reduction efforts to reduce budget overages. Value Engineering (VE) for this project identified substantial savings; in the past, however, VE has not been eligible for reimbursement; and,

Western Virginia Regional Jail has taken the initiative to have their facility become the first LEED (Leadership in Energy & Environmental Design) accredited jail in the Commonwealth. Construction using this design will result in dramatic operational cost savings and environmental benefits. And, by having the LEED certification, the facility will already have complied with Executive Order 48-07, which outlines energy performance standards for new and renovated, state-owned facilities. However, the construction cost to implement this initiative is not eligible at this time.

After discussing these items with representatives from the localities and the facility during the Committee meeting, it was recommended to approve the request for state jail construction funding reimbursement for these three items. Therefore,

“The Board of Corrections approves the Western Virginia Regional Jail Authority’s request for additional state jail construction funding reimbursement

in the amount of \$11,330,023 or 50% of additional approved project costs of \$22,660,047. This makes a total eligible project cost of \$46,806,831 or 50% of \$93,613,662. This approval is subject to the availability of funds and in compliance with Sections 53.1-80 through 82 of the Code of Virginia.”

The *MOTION*, duly made by Ms. Fraser and seconded by Mr. Burrell, was *APPROVED* as presented by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). Messrs. Burrell and Proffitt offered brief comments in support of the facility’s efforts to help the environment and to help save tax dollars. At the call, there were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

7) **Board Motion on Modification Requests to the *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities for Eastern Shore Regional Jail***

The facility was constructed to house 148 inmates and was complete and occupied by May, 2007. Associated with the project is a request from the Eastern Shore Regional Jail Board for the approval of three modifications to the *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities* related to attack-resistant glazing, security screw connections in lieu of welded connections and reimbursement for salaried county employee hired as Clerk of the Works. The Jail Board would like the Board to consider the following:

- A modification to Standards 5.41.B.2 to permit the use of 30-minute attack-resistant glazing in the Central Control Room in lieu of 60-minute rated glazing. It is the contention of the Jail Board that the Central Control Room is not adjacent to uncontrolled space or the exterior of the building nor is it part of the secure perimeter and that the Control Room is manned 24 hours a day. Furthermore, it is the Jail Board’s contention that Standard 5.41.B.3 allows for 30-minute glazing in areas inside the secure perimeter.

It is the position of staff that in addition to Standards 5.41.B.2 and 5.41.B.4 cited by the Jail Board, Standards 5.41.A and 5.41.B.3 also apply in this instance.

After some discussion, it was recommended that this modification be granted as long as the Jail Board installs Lexgard on the five pieces of glazing that face the public lobby. Therefore,

“In order to allow the Eastern Shore Regional Jail Board to use 30-minute rated, attack-resistant glazing in the glazed openings of the Central Control Room, the Board of Corrections grants a modification to Standards 5.41.A, 5.41.B.2, 5.41.B.3 of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities and accepts Standard 5.41.B.4 as applicable, to permit the use of 30-minute glazing in the perimeter security walls surrounding the Central

Control Room. This modification approval shall not be construed as a future modification or variance to these Standards for this or any other facility.”

The *MOTION*, duly made by Ms. Fraser and seconded by Mr. Mitchell, was *APPROVED* as presented by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There were a few brief comments. There were no questions. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

- And the Jail Board would like for the Board to consider a modification to Board Standards related to bar grille installation, specifically the method of attachment of bar grilles to the window frames and doors with security screws in lieu of the required welded connections, which is the preferred method of attaching the bar grilles to the window frames and doors. The Eastern Shore Regional Jail is committed to maintaining the facility, including glazing, in a manner that is functional and accessible to maintenance staff without altering the security of the glazing and has offered to enter into a legally binding agreement that the bar grilles will be removed only for maintenance purposes and will be reinstalled after completion of any maintenance work.

It is the position of staff that Standards 5.36.A and 5.40.B.1 give performance requirements and specifications for fabricating the bar grilles to be used on windows and doors but does not specify the method of attachment. In this case, staff used Security Industry Standards, in accordance with Standard 5.36.C, which all specify welding as the approved attachment method. Security Industry Standards require that all glazing have a security rating consistent with the space in which it is located. The bar grille design used by Eastern Shore Regional Jail was never submitted to the Department of Corrections for review to verify that the design and connection method met the requirements.

Staff feels that the bar grilles and installation do meet the intent of these Standards due to their high visibility locations and that some protection is provided by the glazing that has been installed. Staff’s main concern now is that the method of attachment prohibits the permanent removal of the bar grilles in the future. Therefore, the Jail Board has offered and staff recommends that the Jail Board provide the Department of Corrections with a mutually acceptable and legally binding agreement stating that except for maintenance purposes, all bar grilles will remain in place in perpetuity and that they will be reinstalled immediately upon completion of any maintenance activities. Therefore,

“In order to permit the use of security screw connections in lieu of welded connections as the method to attach the bar grilles to the window frames and doors, the Board of Corrections grants a modification to Standards 5.36.A & C, and 5.40.B.1 of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities to allow attachment of bar grilles

with security screws as long as a binding agreement that prohibits, in perpetuity, the permanent removal of the bar grilles. This modification approval shall not be construed as a future modification for Standards 5.36 A & C and 5.40.B.1 for this or any other facility.”

The *MOTION*, duly made by Ms. Fraser and seconded by Mr. Burrell, was *APPROVED* as presented by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). *It was reiterated that the binding agreement will be approved by the Attorney General’s Office.* And it was further stated that the Department’s Compliance and Accreditation Unit inspectors and auditors will ensure that the security screws are in place. There were no questions. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

- And finally, the Jail Board notes that in June, 2003, Northampton County hired the firm of Powell Management & Associates to oversee the construction of the Eastern Shore Regional Jail. In the spring of 2004, the County deemed it too costly to continue to retain the management firm’s services. The County determined that using a County employee as the Clerk of the Works to oversee the construction of this project was more cost effective. The County followed the appropriate procurement process in hiring a person for this position. However, the County inadvertently hired the Clerk of Works as a County employee, not as a contract employee. The Jail Board acknowledges its error and requests the Board of Corrections to grant a modification to Standard 2.9.K.3.e to allow for the reimbursement of this expense.

It is the position of staff that Standard 2.9.K.3.e states that the salaries of the locality’s employees are not considered reimbursable as a construction cost. In addition to Standard 2.9.D.3.e, staff has referred this issue to the Office of the Attorney General for review. The Attorney General has advised that the request for reimbursement of a salaried county employee does not appear to be authorized under the Code of Virginia. Therefore,

“The Board of Corrections denies the request for modification to Standard 2.9.K.3.e of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities to allow the reimbursement of the salary of the County employee for the oversight of the construction of the Eastern Shore Regional Jail.”

The *MOTION*, duly made by Ms. Fraser and seconded by Mr. Mitchell, was *DENIED* as presented by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There were no questions, comments or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

8) **Compliance and Accreditation
Certifications Section**

Ms. Fraser presented the following certification recommendations for consideration on behalf of the Committee:

Unconditional Certification for Caroline Correctional Field Unit 2 and Tazewell Correctional Field Unit 43;

Unconditional Certification for Fluvanna County Lockup as a result of 100% compliance to include approval to hold male and female juveniles in accordance with Section 16.1-249(g) of the Code of Virginia;

Unconditional Certification for Albemarle/Charlottesville Regional Jail, Amherst County Jail, Fairfax County Mason District and Mt. Vernon District Lockups as a result of 100% compliance;

Unconditional Certification for Chesapeake Correctional Center as a result of 100% compliance to include approval to hold male juveniles in accordance with Section 16.1-249 of the Code of Virginia;

Unconditional Certification for Montgomery County Jail to include approval to hold male and female juveniles in accordance with Section 16.1-249(g) of the Code of Virginia;

Unconditional Certification for Harrisonburg Men's Diversion Center and Probation & Parole District 23 (Virginia Beach) as a result of 100% compliance;

Unconditional Certification for Probation & Parole District 1 (Richmond);

And Unconditional Certification for Friends of Guest House, Inc., to include a variance to Standard 6VAC 15-70-70U.

By *MOTION* duly made by Ms. Fraser and seconded by Mr. Mitchell, the Board *APPROVED* the above recommendations by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There were no questions, comments or discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

9) **Policy & Regulations**

a) **Board Motion to Repeal 6 VAC 15-10 et seq. and Promulgate 6 VAC 15-11 of the *Public Participation Guidelines***

The Department is requesting approval to repeal 6 VAC 15-10 et seq. and promulgate new *Public Participation Guidelines* (6 VAC 15-11 et seq.) as required by Chapter 321 of the 2008 Acts of Assembly. This legislative mandate requires that all state agencies adopt model public participation guidelines issued by the Department of Planning and Budget by December 1, 2008. Public participation guidelines exist to promote public involvement in the development,

amendment or repeal of an agency's regulations. The *Public Participation Guidelines* are exempt from the Administrative Process Act. Therefore,

“The Board moves to repeal 6 VAC 15-10 et seq. and to adopt 6 VAC 15-11 as the new Board of Correction’s *Public Participation Guidelines*. 6 VAC 15-11 et seq. is exempt from the Administrative Process Act and therefore, upon final adoption by this Board, will be forwarded to the Virginia Register for publication and will go into effect on November 12, 2008.”

By *MOTION* duly made by Ms. Fraser and seconded by Mr. Burrell, the Board *APPROVED* the above action by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There were no questions, comments or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

b) **Board Motion to Adopt Revisions to 6 VAC 15-70, Standards for Community Residential Programs**

The current Standards have been in effect since September 17, 2000. The Department has recommended revisions to 6 VAC 15-70 and is requesting the Board to adopt same. The Standards for Community Residential Programs are exempt from the Administrative Process Act based on Code of Virginia Section 2.2-4002 b. 9-10. Therefore,

“The Board moves to amend 6 VAC 15-70 et seq. These Standards are exempt from the Administrative Process Act and shall be adopted in accordance with timeframes set forth in the Virginia Register Act.”

By *MOTION* duly made by Ms. Fraser and seconded by Mr. Decker, the Board *APPROVED* the above recommendation by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell). There were no questions, comments or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent and there is one vacancy. The Motion carried.

VII. Closed Session

No Closed Session was held.

VIII. Other Business

1. Mr. Johnson remarked that the Department continues to address budget shortfalls. The Department cut \$22 to \$23 million the first go round and has been tasked, along with other state agencies, with coming up with additional 5-10-15% budget reduction strategy plans for fiscal years 2009 and 2010. These plans must be submitted to the Department

of Planning & Budget by September 26, 2008. It is anticipated that actual agency targets and strategies to be implemented will be determined by the end of October.

There were some general comments following the Director's comments. Mr. Decker suggested that if the Board could do anything to help, whether it be to appear at Money Committee meetings in support of the Department or whatever, to please let the Board know. The Director thanked the Board for the offer. The Chairman thanked Mr. Johnson for his comments. No action on the Director's comments was required.

IX. Board Member/Other Comment

The members were polled. Ms. Fraser, Mr. Decker, Mr. Mitchell and Mr. Burrell each indicated they had nothing. Mr. Proffitt indicated the Western Region Jail Association fall conference will be held from October 22 through 24, 2008. In addition, the Chairman noted he had received a letter from the Office of the County Administrator for Botetourt County, which he went on to read into the record:

Dated: July 23, 2008

To: Mr. Sterling C. Proffitt, Chairman, Virginia Board of Corrections

RE: Botetourt-Craig Counties Public Safety Facility and Regional Jail

Dear Mr. Proffitt:

Now that our project is complete, I wanted to note the excellent cooperation and assistance that we received from the Board of Corrections and staff of the Department of Corrections. For a relatively small locality like Botetourt County, the process of receiving initial approval for a regional jail, the subsequent design, construction, and certification of the facility, and the financing, both short-term and long-term, can be overwhelming. We have enjoyed the good fortune of experiencing a true partnership with your organizations throughout this project.

No one has been more critical to our success than Brooks Ballard. She has been professional, very accessible, and willing to meet to review our draft reimbursement package prior to submission. Ms. Ballard was very fair and open to our justification of certain costs and their allocation to the Jail portion of our Public Safety Building. Her recognition of a calculation error in the County's favor and quick submission to the Board of Corrections for approval of the revised reimbursement amount was greatly appreciated.

During the pre-occupancy reviews and testing, Ms. Ballard was firm but reasonable in her determinations. Her suggestions were often implemented as improvements to future operational issues.

In summary, Brooks Ballard played a major role in establishing and maintaining a cooperative working relationship which resulted in productive fact finding and resolution of both financial and construction issues. It is my pleasure to commend her work to you.

Sincerely, Gerald A. Burgess, ICMA Credentialed Manager, County Administrator

The Chairman closed by remarking that staff does an excellent job.

X. Future Meeting Plans

The October 15, 2008, meetings are scheduled as follows:

Liaison Committee – 9:30 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;
Correctional Services/Policy & Regulations Committee – 11:00 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 Ms. Fraser, seconded by Mr. Burrell and unanimously **APPROVED** (Burrell, Decker, Fraser, Mitchell), the meeting was adjourned. There was no discussion. The Chairman voted his approval of the move to adjourn. Three members were absent and there is one vacancy. The Motion carried.

(Signature copy on file)

STERLING C. PROFFITT, CHAIRMAN

RAYMOND W. MITCHELL, SECRETARY