

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	May 20, 2009
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 James R. Socas B. A. Washington, Sr. W. Randy Wright
Absent	Gregory M. Kallen

1:00 p.m., Wednesday, May 20, 2009
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. One member was absent, as indicated during the verbal roll call and as noted above.

At the Chairman's request, all meeting attendees in the room identified themselves for the record.

I. Board Chairman (Mr. Proffitt)

1) Motion to Approve October Board Minutes

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

By **MOTION** duly made by Mr. Wright and seconded by Mr. Mitchell, the minutes were **APPROVED** as presented by verbally responding in the affirmative (Decker, Fraser, Mitchell, Socas, Wright). There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. One member was absent. The vote of Messrs. Burrell and Washington was not considered as they were not present at the October Board meeting. The Motion carried.

2) Motion to Approve March Board Minutes

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

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

One member was absent. The vote of Messrs. Socas and Wright was not considered as they were not present at the March Board meeting. The Motion carried.

3) **Presentation to Ms. A. Brooks Ballard by Western Virginia Regional Jail**

Regional Jail Board Chairman Sheriff Gerald Holt and Superintendent Charlie Poff were present to make the plaque presentation to Ms. Ballard. Sheriff Holt thanked the Board and recognized Ms. Ballard as their “guardian angel” for guiding them safely through the long construction process. Sheriff Holt then read the wording of the plaque into the record, a copy of which wording is retained in the Board file. Ms. Ballard accepted the plaque with thanks.

Superintendent Poff indicated what a great pleasure it has been working with Ms. Ballard. Sheriff Holt noted his appreciation of her support and that of the Board, even after having to come back twice for additional consideration. He indicated the facility is operational and currently holds 500 inmates. He is proud to announce that the Western Virginia Regional Jail is the first LEED-accredited facility in the Commonwealth as the facility design includes several green features to help protect the environment and to reduce energy costs over the life of the building.

The Chairman thanked both gentlemen for their comments. After the presentation, Sheriff Holt and Superintendent Poff departed the Board Room.

II. **Public/Other Comment (Mr. Proffitt)**

There were members of the public present at the meeting; however, when offered the opportunity, none indicated a desire to address the Board.

III. **Presentation to the Board (Ms. Scott)**

There was no presentation scheduled for the Board this month.

IV. **Liaison Committee (Mr. Burrell)**

Mr. Burrell gave a brief overview of the Committee meeting. Mrs. DeSocio was present from the Comp Board and went over several budget items. Mr. Burrell indicated a Task Force has been formed whose purpose will be to review the current jail construction process and which will be looking at ways to save costs.

Mr. Bill Wilson reported the Department’s out-of-compliance figure at 2,578. He also reported on various jail construction projects across the state. Mr. Burrell’s report was then concluded.

There was no discussion or comment. No Board action is required. Mr. Proffitt thanked Mr. Burrell for his report.

V. **Administration Committee (Mr. Wright)**

1) **Board Resolution to Approve Transfer of 13.56 Acres of Land at Chatham Diversion Center to Pittsylvania County**

The Department requests to transfer 13.56 acres, more or less, of the Chatham Diversion Center to Pittsylvania County. Prior to submission to the Board, this proposed transfer was reviewed and approved as to form by Mr. Alan Katz, Senior Assistant Attorney General.

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

“Pursuant to Section 53.1-18 and 2.2-1150 of the Code of Virginia and as directed by the General Assembly and requested by the Department of Corrections, the Board of Corrections approves the transfer of a portion of the Chatham Diversion Center to the County of Pittsylvania consisting of approximately 13.56 acres, more or less, to include the Diversion Center, Warden’s House and outbuildings as indicated on the attached plat of the property.

This transfer is being made as a part of the Governor’s FY2009 Reduction Plan. 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. One member was absent. The Motion carried.

2) Mr. Wright reported the **Overtime Report for 3Q FY2009 Ended March 31, 2009** was reviewed and discussed in Committee. He indicated overtime is down considerably; approximately 40% over the same period last year. There was no comment or discussion on this item.

Mr. Wright then went on to state the Committee had reviewed the Jail Inspection Update report included in the Board package and stated several local jails appear to be experiencing extreme overcrowding (i.e., Chesapeake City, 523 over operating capacity; Hampton Roads Regional Jail, 499 over; Henrico County Jail, 368 over; Richmond City Jail, 558 over; Virginia Beach City Jail, 531 over; and Norfolk City Jail, 740 over, to name just a few). He stated that this overcrowding situation is very serious and to let it continue is egregious. Mr. Proffitt noted this is a problem that is of concern to everyone.

Mr. Proffitt then reported that Henry County Jail had experienced a dryer fire over the weekend; that everyone was evacuated safely with no injury to inmates or staff. He suggested the only thing anyone can do at this point regarding the jail overcrowding issue is wait to see what the General Assembly is going to do with the jail construction

reimbursement process.

The Director indicated the Department always works with the jails who are hit with overcrowding the worst, but a large part of the problem is the Department had to close 1,300 beds last year and there are currently 800 beds sitting idle at St. Brides because there is no money to operate those beds. Ms. Scott indicated the Grayson County facility is anticipated to be operational by August of 2010 but there are no funds to operate that facility either.

Mr. Decker recognized the efforts of the Department to tighten its belt; reducing the overtime numbers is an impressive way to do so.

There was no further discussion. No Board action is required for this item. Mr. Proffitt thanked Mr. Wright for his report.

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

With Board members Burrell, Fraser, Mitchell, Washington and Proffitt and several guests present, the Committee met to discuss several items:

1) **Board Motion to Grant a One-Time Variance to Richmond City Jail for Standard 6VAC15-40-1080**

Richmond City Jail appealed a finding of non-compliance for the above Standard. Their assertion was they had in fact attempted on several occasions to have the Fire Marshal's Office conduct its annual inspection of the facility within the timeframe as prescribed by the Standard. However, due to circumstances beyond the control of the jail, that inspection was not effected until a date that was beyond that timeframe. The jail provided documentation in support of their assertion.

To remedy this situation from happening in the future, the jail has entered into a Memorandum of Understanding with the Fire Marshal's Office which, among other things, states the jail will contact the Fire Marshal's Office two months prior to expiration of the inspection in order to get on the Fire Marshal's inspection schedule and have the inspection performed in the timeframe required by the Standard.

Ms. Fraser indicated the Board had encountered a similar situation in the past with Martinsville City Jail and had granted a variance to this Standard in that instance so a precedent for this action has already been set.

Therefore, by *MOTION* duly made by Ms. Fraser and seconded by Mr. Burrell, the Board **APPROVED a one-time variance to Standard 6VAC15-40-1080 for the Richmond City Jail** by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas, Washington, Wright).

There were no questions, comments or discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. One member was absent. The Motion carried.

2) **Motion to Revise Suggested Fees as included in the Model Plan for Jail Prisoner and Medical Treatment Programs (March, 2003)**

The Board has a *Model Plan for Jail Prisoner and Medical Treatment Programs* in place. The *Model Plan* was established in September of 1994 and incorporated into the *Standards for Jails and Lockups* in August of 1995. The *Model Plan* was established as a guide to assist Sheriffs and Superintendents with developing medical services programs in which inmates may be charged fees. Included in the *Model Plan* is a listing of applicable medical services and Suggested Fees, which is used as a guide for compliance by local jails and lockups. Jails are not obligated to charge any fees.

Current Standards 6VAC15-40-470 and 6VAC15-40-480 were incorporated into the *Standards for Jails and Lockups* in 1995 and were subsequently renumbered to mirror the current Virginia Administrative Code (VAC) format. Each Standard includes the verbiage “*a portion of the costs,*” and individual facilities have instituted *Model Plan* fees in support of the Standard. However, because of the lack of a definition for “*portion*” and the fact the fees were only suggested, it is now difficult for the certification auditors to interpret compliance with the Standards. Some jails charge as little as \$5.00 for medical services and some are charging as much as 99% of medical costs. Therefore, it is being requested to revise the *Model Plan’s* Suggested Fees by placing a limit on the amount that may be charged for medical fees and to amend the fees to reflect 2009 prices as follows:

Applicable Medical Services and Suggested Fees

Medical services which should be provided at no charge to inmates are as follows:

1. Initial medical screening
2. Initial dental screening
3. Mental health screening
4. Follow-up visits requested by medical staff

Medical services for which fees may be charged are as follows:

1. Nurse Appointment- \$10.00
2. Doctor Appointment- \$25.00
3. Dentist Appointment - \$25.00
4. Specialist Appointment- \$35.00
5. Emergency Room Visit- \$100.00
6. Emergency Medical Transport \$100.00
7. Hospital Admission-\$200.00 per day

8. Prescriptions and /or Medical Supplies \$5.00-\$20.00 not to exceed the actual cost of the medication or supplies.

Inmates may be required to pay 100% of expenses for pre-existing medical conditions, injuries or illnesses that are self inflicted, caused by mutual combat or as a result of justifiable use of force by staff.

Mr. Socas enquired if the purpose of the revised Suggested Fees is to deter inmates from frivolous visits to medical or is it to generate money for the jails. The Director indicated that when the Model Plan was initially approved, there were inmates who abused the system and this was a way of ensuring that inmates would pay for medical expenses the same as a citizen would have to pay for medical expenses.

Mr. Socas responded, however, that if an individual in society was below a certain income, they would not have to pay and wondered if this was an unfair burden being placed upon the inmates. Mr. Wilson responded that the revised Suggested Fees are below current usual and customary charges and modeled after current co-pays for most insurance companies. He indicated jails are not going to deny medical services to anyone if they are unable to pay and that this would help curb some of the abuse. He also noted there are current jail inmates who do have insurance and there are those who do have the ability to pay.

There were no further comments, and the Chairman called for the vote. Therefore, by **MOTION** duly made by Ms. Fraser and seconded by Mr. Mitchell and **APPROVED** by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Washington, Wright), **“The Board of Corrections amends the Model Plan for Jail Prisoner Medical Treatment Programs to replace the current Suggested Fee with the above list of fees not to be exceeded.”**

Mr. Socas **ABSTAINED** from the vote. The Chairman then voted his approval of the Motion. One member was absent. The Motion carried.

3) **Discussion on Piedmont House**

This item was tabled until the July meeting. Ms. Fraser indicated another staff review is to be conducted on May 27, 2009, which will help the Board make a better informed decision.

4) **Motion to Approve Additional State Jail Construction Funding Reimbursement for Eastern Shore Regional Jail**

This project was first approved in September, 2003. Since that time, construction costs are up considerably due to the following: the inflation rate has been unusually high; the Virginia Department of Health added requirements to construct a new wastewater treatment plant, to drill two new water wells and to construct a new water treatment facility with a 100,000-gallon elevated water storage tank; and due to unknown site conditions. The Jail Board initiated aggressive value engineering and cost reduction

efforts to reduce the total budget overages. Total savings amounted to \$908,332.

Given the nature of the factors contributing to the project's increased costs and the due diligence on the part of the Jail Board to reduce those costs, the Board proposes the following:

By *MOTION* duly made by Ms. Fraser and seconded by Mr. Washington and approved by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas, Washington, Wright), the Board *APPROVED* the following:

“The Board of Corrections approves the Eastern Shore Regional Jail’s request for additional state jail construction funding reimbursement in the amount of \$3,116,122 or 50% of additional approved project costs of \$6,232,244. This brings the new approved project costs to \$11,634,439 or 50% of \$23,268,879. This approval is subject to the availability of funds and in compliance with Sections 53.1-80 through 82 of the Code of Virginia.”

Mr. Wright enquired as to the size of this jail. Ms. Fraser responded it is 148 beds.

There were no other questions, comments or discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. One member was absent. The Motion carried.

5) **Motion to Approve Additional State Jail Construction Funding Reimbursement for Prince William/Manassas Regional Jail**

This project was started in 1994 and includes 200-bed and support-services expansions. It has also experienced a high inflation rate between the time that the project funding was approved in 2003 and the bidding of the project; the project encountered unknowns related to site work after the project was under construction. As a result, construction costs increased considerably. The jail had to be constructed as a multi-story facility on a constricted site due to its urban location, the facility had to match other County buildings in its appearance and materials deliveries to the site were confined to certain times of the day. Each of these factors contributed significantly to the project's higher cost.

The Jail Board refused the first bid because of the high costs; then reorganized and rebid the project to reduce costs. The Jail Board initiated aggressive value engineering and cost reduction efforts to identify reductions in costs by more than \$1.9 million.

Therefore, by *MOTION* duly made by Ms. Fraser and seconded by Mr. Burrell and verbally approved by responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Washington, Wright), the Board *APPROVED* the following:

“The Board of Corrections approves the Prince William/Manassas Regional Jail Board’s request for the additional State funding for the Prince William/Manassas ADC construction reimbursement in the amount of 50% of the additional project

costs of \$25,315,627 with the State share of \$12,657,813. This makes the total eligible project cost \$53,797,370 of which 50% is \$26,898,685. In addition, if Board Standard 6VAC15-80-211 relating to Value Management Analysis (Value Engineering cost of \$77,558) becomes effective prior to disbursement of the additional approved funds, the amount approved is increased to 50% of the additional project costs of \$25,393,184 with the State share of \$12,696,592. This makes the total eligible project cost \$53,874,928 of which 50% is \$26,937,464. This approval is subject to the availability of funds and in compliance with Sections 53.1-80 through 82 of the Code of Virginia.”

During the call for comment, Mr. Socas remarked this was a lot of money for a 200-bed expansion, even if it did include the core expansion as explained by Ms. Ballard. He stated the Board needs to draw the line when asking the State to fund unacceptable overages. Mr. Proffitt noted the General Assembly has made it very clear that the process is broken and must be addressed. Mr. Socas asked if the County would be responsible for paying for the project if the Board did not approve the additional funding. The answer was yes.

There was no further comment, questions or discussion. There was **ONE OPPOSING VOTE** (Socas). The Chairman then voted his approval of the Motion. One member was absent. The Motion carried.

6) **Board Motion to Approve Community-Based Corrections Plan (C-BCP) for Rockbridge Regional Jail Expansion**

The Rockbridge Regional Jail Board is seeking approval of their community-based corrections plan to justify expansion of its current facility by 128 new beds. The facility has 56 general population beds currently. With the redesign of 10 current beds for Special Purpose and adding 114 new general population beds and renovating some of the Sheriff’s space to add 24 community custody beds, the new total will be 184 beds.

Therefore, by **MOTION** duly made by Ms. Fraser and seconded by Mr. Wright and verbally approved by responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas, Washington, Wright), the Board **APPROVED** the following:

“The Board of Corrections approves the request for approval of the Community-Based Corrections Plan for the Rockbridge Regional Jail Board in support of their need to expand the Rockbridge Regional Jail.”

During the call for comment, Superintendent Higgins spoke and thanked the Board. He stated the community is looking forward to the expanded facility and to saving money.

There were no additional comments. There were no opposing votes. The Chairman then voted his approval of the Motion. One member was absent. The Motion carried.

7) **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 during the jail's Triennial Certification Audit. Since January 1, 2009, the following jails and lockups have achieved 100% compliance with Board Standards: Southwest Virginia Regional Jail Duffield and Haysi and Essex County Lockup.

Therefore, by *MOTION* duly by Ms. Fraser and seconded by Mr. Mitchell, **“The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approved suspension of the 2009 Annual Inspection for the Southwest Virginia Regional Jail Duffield and Haysi and Essex County Lockup.”**

The Motion was *APPROVED* by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas, Washington, Wright).

There was no comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. One member was absent. 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 as a result of 100% compliance for Wise Correctional Unit #18;

Unconditional Certification for Green Rock Correctional Center with a variance for Standards 4-4147-1, 4-4149 and 4-4270 and for Halifax Correctional Unit #23 with a variance for Standard 4-4133.

And the following were audited and received ACA re-accreditation following the 2009 ACA Winter Conference:

Unconditional Certification for Dillwyn Correctional Center, Fluvanna Correctional Center for Women, Buckingham Correctional Center, Sussex I State Prison and Keen Mountain Correctional Center;

Unconditional Certification as a result of 100% compliance for Essex County Lockup to include male and female juveniles in accordance with §16.1-249.G of the Code of Virginia;

Unconditional Certification for Richmond City Jail with a variance to Standard 6VAC15-40-1100 LHS to include male juveniles in accordance with §16-1-249 of the Code of Virginia;

Unconditional Certification for Middle Peninsula Regional Security Center;

Unconditional Certification for Pamunkey Regional Jail with ACA re-accreditation;

Unconditional Certification as a result of 100% compliance for Probation & Parole District #6 (Suffolk); Probation & Parole District #37 (Rocky Mount); Probation & Parole District #24 (Farmville);

And Unconditional Certification for Probation & Parole District #14 (Danville).

By *MOTION* duly made by Ms. Fraser and seconded by Mr. Wright, the Board *APPROVED* the above recommendations by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas, Washington, Wright).

There were no questions, comments or discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. One member was absent. The Motion carried.

9) **Policy & Regulations**

Board Motion to Submit 6VAC15-28 Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility for Public Review and Comment

The draft changes included in the document provided to the Board are as a result of changes to the Code of Virginia. This regulation has completed the Notice of Intended Regulatory Action (NOIRA) stage and the draft now required public review and comment.

Therefore, by *MOTION* duly made by Ms. Fraser and seconded by Mr. Mitchell and by verbally responding in the affirmative (Burrell, Decker, Fraser, Mitchell, Socas, Washington, Wright), the Board *APPROVED* the following:

“The Board has reviewed the proposed amendments to 6VAC15-28 Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility and moves to submit the proposed action for public review and comment in accordance with the Virginia Administrative Process Act.”

There was no comment or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. One member was absent. The Motion carried.

No further Board action was required. The Chairman thanked Ms. Fraser for her report.

VII. Closed Session

No Closed Session was held.

VIII. Other Business (Mr. Johnson)

The Director commented on the two inmates who escaped from the James River Work Center and who were subsequently returned, but not to James River. He also noted that on the same day as the two James River inmates were returned to the Department, the FBI had located a DOC inmate in Georgia who had escaped in 1982. This inmate will be returned to Virginia in due course.

There was other general comment and discussion. No action by the Board was required.

IX. Board Member/Other Comment

The members were polled. Mr. Burrell, Mr. Decker, Mr. Mitchell and Mr. Washington each indicated they had nothing. Mr. Wright indicated this would be his last meeting as his term expires in July of this year. He thanked the Director, Mr. Leininger and Mrs. Woodhouse for their work with the Board. He stated how much he had enjoyed his work on the Board and that he would not trade the experience for anything in the world. He noted he is National Chair of the American Public Transit Association Members Committee and that this is where his passion is and heart lies. The Chairman thanked him and noted his appreciation for Mr. Wright's input.

Ms. Fraser then indicated it was her last meeting as well. She noted she was subject to reappointment but that this would be her last meeting. The Chairman thanked Ms. Fraser, stating she had done yeoman's work in heading up the Correctional Services Committee; that there was a lot of work involved with the Committee and that she had handled the responsibilities extremely well and would be missed.

Mr. Socas indicated he had nothing but to say he would miss Randy and Jackie.

Mr. Proffitt indicated he reviewed the November 19, 2008, Virginia Local and Regional Jail Financing Report on the Comp Board's web site:
(http://hac.state.va.us/Committee/files/2008/11-19-08_Retreat/Jail_Financing--11-19-08--Print.pdf).

He noted that Page 5 indicates the total cost of jail construction, expansion, and renovation projects built since 1993 equals \$1.2 billion, which is comprised of 50 projects for increased jail bed capacity of 11,177 beds. Virginia's share of the construction costs for these projects totals \$535.7 million and equals 44.4% of total construction costs.

Mr. Proffitt went on to indicate that Page 9 compares square footage costs for local and regional jails and prisons. Virginia has spent \$629 million constructing state prison facilities since 1994, which increased prison capacity by an additional 11,440 beds. The square footage cost per DOC facility is less than square footage cost for local and regional

jails; average jail square footage cost for local or regional jail construction equals \$263.30. The average square footage for prisons equals \$238.38.

Page 21 indicated that 50 states responded to a recent survey about funding policies regarding jail construction: 42 states reported providing no form of support; 8 states, including Virginia, reported providing some form of support for local and regional jail construction project and of the 8 states providing support, only 5 appear to do so routinely.

And finally, Page 22 compares Virginia's operating support for local and regional jails to other states. Only six states exceed \$8.30 per capita in spending on local and regional jails: Massachusetts provides \$69; Virginia - \$42; Louisiana - \$35; Oregon - \$31; Tennessee - \$19; Montana - \$12. Utah, Missouri, Mississippi, New Jersey, Oklahoma, Maryland, Maine, Kentucky, Arkansas, Wisconsin, New Mexico, Nebraska, Colorado, Alabama, Michigan, North Carolina, California and Arizona all provide \$8.30 or less per capita in spending on local and regional jails.

The Chairman concluded his remarks. No action by the Board was required.

X. Future Meeting Plans

The Chairman announced the July 15, 2009, 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. Wright , seconded by Mr. Socas and unanimously **APPROVED** (Burrell, Decker, Fraser, Mitchell, Socas, Washington, Wright), the meeting was adjourned. There was no discussion. The Chairman voted his approval of the move to adjourn. One member was absent. The Motion carried.

(Signature copy on file)

STERLING C. PROFFITT, CHAIRMAN

RAYMOND W. MITCHELL, SECRETARY