

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	March 17, 2010
Location	6900 Atmore Drive Richmond, Virginia
Presiding	Sterling C. Proffitt, Chairman
Present	Cynthia M. Alksne Jonathan T. Blank James H. Burrell Peter G. Decker, III Rev. Anthony C. Paige James R. Socas B. A. Washington, Sr.
Absent.....	Raymond W. Mitchell

1:00 p.m., Wednesday, March 17, 2010
6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. The Chairman welcomed everyone, and the roll was called. One member was absent as noted during the verbal roll call and as indicated above. A quorum was present. The Chairman then asked meeting attendees to identify themselves for the record.

I. Board Chairman (Mr. Proffitt)

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

The Chairman called for a Motion to approve the November Board Minutes. As several revisions were presented for inclusion, it was requested that the item be deferred to the May meeting.

By ***MOTION*** duly made by Mrs. Alksne and seconded by Mr. Socas, approval of the Minutes is deferred to the May Board meeting (Alksne, Blank, Burrell, Decker, Paige, Socas, Washington).

There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. There was one absence. The Motion carried.

2) **Board Motion to Include Letter to House/Senate Conferees Reflecting Board's Concerns Regarding the Impact of Budget Cuts to the Department of Corrections As Part of the Record**

At its November meeting, the Board voted to have a letter written and sent to General Assembly members in which it could voice concerns about how budget reductions were impacting the Department. After some delay, the letter was vetted through and approved by the Board and sent to General Assembly House and Budget Conferees.

Mr. Socas thanked staff for the excellent job done on the letter; however, in the future he stated it would be helpful for the Board to be kept apprised on the status of such requests.

By **MOTION** duly made by Mr. Burrell and seconded by Mr. Socas, it was **APPROVED** by responding in the affirmative that the letters sent to General Assembly House and Senate Conferees be included in the Board file and made a part of the record (Alksne, Blank, Burrell, Decker, Paige, Socas, Washington).

There were no questions; however, there was some general discussion regarding the process used to execute the approved Board action (i.e., the action taken on the letter was not timely and should not have been at the discretion of staff). It was explained there had been a delay as a result of the item not being presented to the new, incoming Secretary; as soon as this oversight was brought to her attention, action was taken and the letter was sent.

There were no opposing votes. The Chairman then voted his approval of the Motion. There was one absence. The Motion carried. To date, no response has been received to the letters.

3) **Board Briefing on Pending Litigation**

This item was handled during the Closed Session.

4) **Discussion Regarding Board Retreat**

Mrs. Alksne updated the Board on the progress of the plans for the retreat. She indicated the Department had offered the use of the Academy and will provide breakfast and lunch. She offered two suggestions: 1) pick topics and add them to the Agenda of an upcoming Board meeting; or 2) pick topics and hold a day-long retreat to discuss them, the day and time to be determined. A list of possible topic items had been distributed to the Board members previously. It was agreed to hold a one-day retreat at a date to be determined.

Further information will be forthcoming. No Motion on the update is required.

II. Public/Other Comment (Mr. Proffitt)

Ms. George addressed several questions to Director Johnson regarding inmates who have been transferred as a result of the closing of Brunswick Correctional Center, inmates who have been displaced at Green Rock as a result of the out-of-state contract with the Pennsylvania Department of Corrections and the funding of the Grayson County facility. Her questions were fielded by Mr. Johnson and Mr. Bass.

There were no questions or comments and no action by the Board was required.

III. Presentations (Ms. Scott)

Ms. Cookie Scott introduced Mr. Mikel Johnson, Manager of the Department's Corrections Construction Unit. Mr. Johnson provided the Board with a very informative PowerPoint presentation, the highlights of which follow:

The inmate work program was established in the mid-70s to utilize a group of inmates who had skills that could be put to use statewide. The Unit recruits Level I inmates who come into the Department with previous construction trade skills. Though the Unit has performed projects for other state agencies, most of the projects are performed for the Department of Corrections covering everything from new construction to renovation upgrades. Construction trades include: general construction, interior finishing, roofing, masonry, electrical, plumbing, fencing, Asbestos abatement, HVAC duct cleaning, civil site work, asphalt paving and concrete placement.

Project funding comes from the Department's maintenance reserve and capital outlay funding as well as institutional operations and maintenance funds. There are 27 employees, four of whom are project managers assigned to the Unit. Of those, 14 are restricted field staff positions. A restricted employee is one whose position receives funding from CCU-funded construction projects. Those employees are subject to layoff if projects are not available. Full salary and employee benefits such as annual leave, personal leave, sick leave, state holidays, DOC training time, etc., are funded by CCU projects. Restricted payroll represents approximately 25% of the total value of the project.

Prisoner wages are included in the materials side of a project. There are 63 inmates presently employed by the Unit. In order to be considered for the Unit, inmates have to be a Level I inmate within seven years of release with no sex convictions, and no escape or assault charges.

Inmates write to Mr. Johnson requesting to participate in the program. He reviews the request and if deemed appropriate, it is forwarded to Mr. Bass for review and approval. Inmate workers begin at James River Work Center and are issued a statewide Gate Pass, signed by the Director, which allows them to travel all over the State to work on jobs.

The pay for inmates is anywhere from a low of 65 cents to a high of 95 cents an hour. The problems the Unit is encountering is: demand exceeds available resources; CCU work program not attractive to the available Level 1 inmate population; lack of construction skills within the Level 1 inmate population; competition for Level 1 inmates from other DOC inmate work programs (i.e., agribusiness, institutional buildings and grounds and VCE); aging CCU field supervision staff. In order to meet current demands, the program could employ 150 inmates.

Mr. Mikel Johnson concluded his overview. There was general comment/discussion by the Board. Director Johnson noted that the Unit does an excellent job and noted that one big issue is staffing; if the positions were general funded instead of payroll having to come out of project funds, the Unit could do that much more with the funding it has. He indicated this is something the Department is working on.

On behalf of the Board, the Chairman thanked Mr. Mikel Johnson for his very informative presentation. A CD and hard copy of his presentation are contained in the Board file.

IV. Liaison Committee (Mr. Burrell)

Mr. Burrell reported that completion of the Grayson project has been moved back to July or August due to weather issues. Mrs. deSocio spoke about the reduction in funding for Sheriffs and localities as well as the reduction in per diems. Mr. Wilson reported the jail population to be 28,522, and the out-of-compliance figure to be approximately 4,000. He indicated an additional 480 beds at the New River Valley Regional Jail will be available shortly.

Mrs. Alksne noted the budget language change to the definition of a state-responsible inmate from felons with sentences of one year or more to felons with sentences of two years or more. Mr. Bass noted that with this change, jails will be holding state-responsible inmates for a longer period. They will be reimbursed by the Comp Board for those inmates at the rate of \$12/day. He reported that the Department has 800 beds opening at St. Brides Correctional Center and that with the language change and the availability of additional beds, the out-of-compliance number should be down significantly by July 1, 2010.

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

IV. Administration Committee (Mrs. Alksne)

Mrs. Alksne chaired the meeting with Messrs. Blank and Socas in attendance and made the following report:

1) **Overtime Report for 2nd Quarter FY 10 Ending December 31, 2009**

The overtime report was reviewed. The committee noted a significant increase to overtime expenses at Wallens Ridge State Prison as compared to the same period last year. Department-wide, overtime is down for FY10. It was also noted that Officer vacancy rates are down due to the economy and due to improved roster management. And, state employees will experience a mandatory, a one-day furlough on May 28, 2010.

2) **Board Motion to Initiate the Naming Process for Grayson County Facility (Mr. Decker)**

The Board is prepared to commence the process for naming the new facility in Grayson County; therefore, I move that:

“The Board of Corrections, in accordance with its authority under Section 53.1-19 of the Code of Virginia, being responsible for designating the formal name of all state correctional facilities, is preparing to establish the formal name for the correctional facility under construction in Grayson County.

In that vein, the Board will write letters to solicit suggestions or preferences for that name from the Grayson County Administrator and County Board of Supervisors. Grayson County officials will be advised that the official name for the facility will include the words “*correctional center.*” Name recommendations from the Department of Corrections will also be considered.

After receipt and upon consensus, the Board will officially vote on the formal name for the facility. The approved recommendation will then be forwarded to the Honorable Marla Decker, Secretary of Public Safety, for concurrence, who will then forward the Board’s recommendation to the Governor for final approval.”

The *MOTION*, duly made by Mr. Decker and seconded by Mrs. Alksne, was *APPROVED* by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Paige, Socas, Washington).

There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. There was one absence. The Motion carried.

There was no other discussion and no other Board action is required on the report.

Mr. Proffitt thanked Mrs. Alksne and Mr. Decker for their input.

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

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

1) **Appearance by Superintendent Sandra Thacker of Peumansend Creek Regional Jail Regarding PREA Standards for Auditing**

Superintendent Thacker appeared before the Committee and updated it about recent federal PREA audit legislation as relates to jails. She asked that as the state already conducts triennial certification audits of the jails, could consideration be given to performing the new PREA audits in conjunction with those certification audits; and should it be determined the Department could perform the new PREA audits in conjunction with the existing audits, was there any way to determine the cost involved.

She opined that if the Department does not conduct the PREA audits, it would open every jail in Virginia to "cottage audit industries," which will be cropping up after the implementation of the PREA standards. Since failure of compliance to the PREA standards for a jail in Virginia would affect federal funds coming to Virginia, the Superintendent believes consistency is needed in the auditing of the standards.

Ms. Lawrence will be meeting with the Deputy for Administration regarding any potential impact on the Department. Mr. Johnson indicated the Department’s PREA

Committee had met with the group hired by the Department of Justice to look at these standards as relates to prisons and stated the cost is out of sight. The Department explained its point of view at the meeting and is putting together a document to identify the cost associated with each Standard. Mr. Johnson estimated by the time it is all said and done, it will cost a tremendous amount of money to implement this audit procedure.

No action by the Board is required on this item.

2) **Board Motion to Approve Moratorium on Community Corrections Probation & Parole Certification Audits for One Year**

Due to the implementation of the Department's new VaCORIS inmate information system, many Community Corrections operations and practices have changed and the Department is in the process of changing over from a paper-based to a computer-based system. Offender documentation that used to be retained as hard copies in files is now permanently retained in CORIS. As a result and during this period of changeover, Community Corrections is requesting a moratorium on Probation & Parole Certification Audits for the period March 19, 2010 through February 28, 2011, in order to allow time for the audit procedure to catch up with the new automated system and Community Corrections practices and procedures.

Previously this was a paper function; now it is generally an automated system. Although it has requested one year for this moratorium in order to give Community Corrections and the Certification Unit time to review and change/revise audit procedures, this review will probably not take a year. This period will allow for development and testing. In addition, Community Corrections Regional Managers are revising the regional reviews to be reflective and supportive of the audit and review process. In the meantime, it was indicated there are enough checks and balances across the system to ensure that what needs to be done is being done. In his presentation to the Committee, Mr. Crossen emphasized he can look at what is happening statewide from his office via CORIS. In addition, the Board was reminded that not every Probation & Parole District is audited every year; approximately 10 Districts would be affected by this moratorium.

Therefore, by ***MOTION*** duly made by Mr. Washington, seconded by Mr. Burrell and ***APPROVED*** by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Paige, Socas, Washington):

“The Board of Corrections imposes a moratorium for the triennial audits for all of Probation & Parole for the period March 19, 2010, through February 28, 2011, for the purpose of developing audit procedures in conjunction with current Community Corrections practices and procedures. As a contingency, Emergency Regulations may have to be implemented to affect this change.”

There were no further questions and there was no further discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. There was one absence. The Motion carried.

3) **One-Time Variance Request by Rockbridge Regional Jail for Standard 6VAC15-40-100**

Superintendent Higgins appeared before the Committee to follow up on his letter dated February 23, 2010, requesting a one-time variance to the finding of non-compliance for the above Standard. He stated that during the other three audits that have taken place since he took over as Superintendent of this facility, this same Standard had been audited as is and was found to be compliant all three times. Since the facility had been found non-compliant this time around, he indicated that as the facility had not intentionally violated the Standard, he asked that the Board grant them a one-time variance. He admitted in his letter that “entries and exits of physicians, attorneys, ministers and other non-facility personnel are not being consistently recorded in the master control logbook. Beginning February 15, 2010, attorney’s entries and exits are now being logged consistently in the master logbook.”

The Committee was comfortable supporting this one-time variance request and recommended the following *MOTION*, duly made by Mr. Washington and seconded by Rev. Paige:

“The Board of Corrections *APPROVES* the request by Rockbridge Regional Jail for a one-time variance to Standard 6VAC15-40-100.”

During the call for questions or comments, Mrs. Alksne remarked that if a Standard is not in compliance at the time of the audit, then the facility should be found out of compliance and cited as such and that because the facility had not been found out of compliance on three previous audits does not mean the facility should not have been following the Standard anyway. She stated that when the Department finds a facility out of compliance, the Board should support its recommendation. Mr. Washington stated that he found the Superintendent’s comments to be reasonable and was willing to grant the one-time variance.

The call for the vote was made. By a show of hands, Messrs. Decker, Burrell, Washington and Paige each indicated they were in favor of granting the one-time variance. Messrs. Socas and Blank and Mrs. Alksne each raised their hand in non-support of the Motion. The Chairman then raised his hand in non-support of the Motion. There was one absence.

Therefore, as the vote was a tie, ***THE MOTION WAS KILLED; THE ONE-TIME VARIANCE REQUEST WAS DENIED.***

4) **Board Motion on Variance Request by Piedmont House, Inc., for Standard 6VAC15-70-150C**

Appearing in person and in support of her letter, Piedmont House Director Laura Anderson requested a variance request for the above Standard due to the fact that residents prepare all of their meals individually. The Standard requires that documentation be provided of all meals served and that meals are planned at least one week in advance during the audit timeframe.

In light of the fact presented regarding how meals are handled at Piedmont House, the Committee was comfortable supporting this variance request and recommended the following *MOTION* duly made by Mr. Washington, seconded by Mr. Socas and *APPROVED* by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Paige, Socas, Washington):

“The Board of Corrections grants Unconditional Certification to Piedmont House, Inc., and approves the variance to Standard 6VAC15-70-150C.”

There were no questions and there was no discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. There was one absence. The Motion carried.

5) **Compliance and Accreditation Certifications Section**

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

ACA Accreditation and Unconditional Certification for Coffeewood Correctional Center, Red Onion State Prison, Wallens Ridge State Prison, Sussex II State Prison and Haynesville Correctional Center;

Unconditional Certification as a result of 100% compliance for Central Virginia Correctional Unit #13;

Unconditional Certification for Marion Correctional Treatment Center;

Unconditional Certification for James River Correctional Center to include variances for Standards 4-4138, 4-4139 and 4-4141;

Unconditional Certification as a result of 100% compliance for Charlotte County Jail, Virginia Peninsula Regional Jail, Henry County Jail, Portsmouth City Jail;

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

Unconditional Certification for Pittsylvania County Jail;

Unconditional Certification for Probation & Parole District 5 (Gloucester) as a result of 100% compliance;

Unconditional Certification for Probation & Parole District 12 (Staunton);

And Unconditional Certification to include variance for Standard 6VAC15-70-150C for Piedmont House, Inc.

By *MOTION* duly made by Mr. Washington and seconded by Mrs. Alksne, the Board *APPROVED* the above recommendations by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Paige, Socas, Washington).

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

6) **Compliance and Accreditation**

Unannounced Inspections Section

a) **Board Motion on One-Time Variance Request by Alleghany Regional Jail for Standard 6VAC15-40-54**

By letter dated February 25, 2010, the Regional Jail Administrator requested a one-time variance to the above Standard from the finding of non-compliance during its unannounced inspection. The Life, Health, Safety Standard states: "Written policy, procedure and practice shall ensure that the facility's food service equipment and personnel meet the established safety and protection standards and requirements as set forth by the State Board of Health's Food Regulations. The facility shall have a Virginia Department of Health inspection conducted every 12 months. Written reports of the Virginia Department of Health inspection shall be on file with the facility administrator."

The Jail Administrator indicated he had made several attempts to have the Health Inspector complete the inspection prior to the 12-month deadline; however, he had no documentation to show this at the time of the inspection. Subsequently, a letter from the Health Inspector was provided, which indicated the inspection could not be completed within the required timeframe due to emergencies experienced by the Virginia Department of Health. The Health Inspector subsequently visited the facility and performed the required inspection, but the inspection was outside of the required 12-month timeframe.

Due to the good-faith efforts of the Jail Administrator, the Committee is comfortable supporting this one-time variance request and recommends the following *MOTION*, duly made by Mr. Washington, seconded by Mrs. Alksne and verbally responded to in the affirmative (Alksne, Blank, Burrell, Decker, Paige,

Socas, Washington):

“The Board of Corrections *GRANTS A ONE-TIME VARIANCE* to the Allegheny Regional Jail for Standard 6VAC15-40-54.”

Mr. Socas enquired as to why they did not meet the Standard; it was explained they could not meet the requirement because the Health Department could not inspect within the 12-month timeframe. There were no other questions, comments or discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. There was one absence. The Motion carried.

7) **Policy & Regulations**

a) **Board Motion to Adopt 6VAC15-28 Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility and Move to Virginia Register for Publication and Adoption**

The final draft of 6VAC15-28 was provided. The proposed regulations have been published in the *Virginia Register* and have been made available for public comment. The public comment period ended on February 19, 2010, and no public comments were received. This regulation is now ready for adoption by the Board.

Upon signature by the Board of Corrections Chairman, the final regulatory package will receive Executive Branch review and will again be made available for public view. After publication in the *Virginia Register of Regulations*, it will undergo a 30-day final adoption period. At the end of that period, 6VAC15-28 will become effective.

Therefore, by **MOTION** duly made by Mr. Washington, seconded by Mr. Decker and **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Paige, Socas, Washington):

“The Board moves to adopt 6VAC15-28 et seq. as the new Board of Corrections Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility. Upon final adoption by this Board and Executive Branch review, these regulations will be forwarded to the Virginia Register for publication and a 30-day adoption period. At the end of that period, 6VAC15-28 will become effective.”

After the motion was approved, the question was asked if Joint Ventures Work Programs could be dovetailed with the inmate work program under the Corrections Construction Unit. The answer was no; Joint Ventures are relative only to VCE industries.

The Chairman thanked Mr. Washington for his report.

VI. Other Business (Mr. Johnson)

The Director indicated the Department had survived the Legislature. He also noted there will be an execution at Greenville Correctional Center on March 18, 2010.

There were no questions of the Director. No Board action was required.

VII. Board Member/Other Comment

The members were polled. Mrs. Alksne, read Budget Bill Item 377 #2s, which adds the following language and asked how the Board will accomplish this mandate:

“The Board of Corrections shall include within its reporting formats on the capacity of each local and regional jail, a measure of the actual jail capacity, which shall include double-bunking, with exceptions as appropriate, in the judgment of the Board, for isolation, segregation, or medical cells, or similar units which would not normally be double-bunked. Exceptions to this measure of capacity may also be made for jails which were constructed prior to 1980. A report on this revised measure of jail capacity shall be presented to the Secretary of Public Safety and the Chairmen of the Senate Finance and House Appropriations Committee by October 15, 2010.”

Explanation:

(This amendment requests the Board of Corrections to measure the capacity of each local and regional jail based on double-bunking. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

Mr. Leininger suggested that Mr. Dick Hickman with Senate Finance and Mr. Paul VanLenten with House Appropriations might be able to provide guidance on how to go about getting this information. Mr. Mike Jones with Moseley Architects remarked that the last study on this subject was in 1986 and it was a very political issue. At that time, the process included an elaborate methodology; it was not simply a matter of going out and counting beds. It was suggested that the Board will need to look at the double-celled/double-bunked facilities and ascertain how those numbers are to be counted. In addition, there are some jails that are triple bunked as well as jails who have inmates sleeping on the floor.

Mr. Socas remarked the Board should have this data. It was suggested that perhaps this accounting could be accomplished in conjunction with inspections and audits. The Director stated that once the Department speaks with Messrs. Hickman and VanLenten, it can get a feel for what they want to see accomplished and can guide the Board from that point.

Reverend Paige enquired about how the Department was handling the 2010 Census. Ms. Scott reported the Department’s plan is to provide the numbers centrally from Atmore, and the Census Bureau has agreed to this plan. When asked which locality gets the credit when

the numbers are gathered centrally, the response was the jurisdiction where the facility is located gets the credit.

Mr. Socas stated he had prepared a Board Resolution in light of comments about the responsibilities and powers and duties of the Board and to confirm policies already in place regarding discrimination. He offered to read the proposed Resolution. The Chairman asked the Senior Assistant Attorney General Alan Katz to weigh in. After reviewing the proposed Resolution, Mr. Katz stated that the Attorney General of Virginia has spoken and offered his opinion on the subject. In addition and as relates to the last paragraph of the proposed Resolution, Mr. Katz indicated that in his legal opinion, the Board of Corrections has no authority to direct the Director in this manner.

Mr. Socas countered that the Board has certain powers and certain rights and that the Governor has made his statement on the issue; that the Board should be consistent with the State and past Governors' philosophies; and that the Board should take a position consistent with the Governor's position. Mr. Katz stated that regardless of whatever position the Board wants to take, it cannot direct the Director of the Department.

The Chairman indicated he did not disagree with the theme of the proposed Resolution; however, he had heartburn with the last paragraph; that this is an operational decision and not the Board's role. He agreed with Mr. Katz that the Board does not have the authority to direct the Director to do this. Messrs. Burrell and Socas stated the Board is policy making and that this was a policy and important to speak out on.

Mr. Katz stated the Governor has spoken and issued a Directive about discrimination; the Department is bound by that Directive. Mr. Socas indicated this proposed Resolution is consistent with the Governor's Directive. It appears that this is a political debate between the Attorney General and the Governor.

Mr. Socas asked the Board members if they felt like this was a statement it would like to make. Mr. Decker stated he agreed with the contents but asked if there was another way to convey the statement and to change "directs" in the last paragraph. Mr. Broughton stated the Department has a policy in place, has not changed its policy, has the Governor's Directive and is bound by that. Mr. Katz stated it is superfluous for the Board to direct the Director not to discriminate; as far as the Board goes, it cannot direct the Director. The Director is out of the equation. He did agree, however, that he had no problem with the Board reaffirming the Department's EEO statement.

Mr. Socas reiterated the Board has certain powers. He stated he would like to see the matter of the Board's authority taken up at the next meeting. Rev. Paige asked if the Board would be amenable to changing the wording of the last paragraph to "reaffirms its commitment."

A 10-minute recess was taken at this time. The meeting was then reconvened.

At this time, the Chairman asked Mr. Socas if he wanted to present his proposed Resolution as originally presented or change it and present it as the Board of Corrections reaffirms its

commitment and then follows consistent with the Department's EEO statement. Mr. Socas agreed to present the modified statement.

Therefore, by *MOTION* duly made by Mr. Socas and seconded by Mrs. Alksne, the following statement was read into the record:

“That the Board of Corrections reaffirms its commitment that the Department of Corrections maintains policies, rules and regulations that ensure equality in the workplace and prohibits discrimination against its employees, and that such prohibited discrimination shall include discrimination on the basis of race, gender, ethnicity, sexual orientation, national origin, religion, age, political affiliation, or against otherwise qualified persons with disabilities.

The Department shall make all employment decisions based on one's merits and qualifications and specifically prohibits discrimination on the basis of race, sex, color, national origin, religion, retaliation, age, political affiliation, sexual orientation, veteran status, and person with disabilities, except when age or sex is a bona fide occupational qualification. Furthermore, the Department will not permit the lowering of job requirements, performance standards, or qualifications, which would give preference to any employee or applicant for employment.”

The call for the vote was made. By verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Paige, Socas and Washington) the Motion was *APPROVED*.

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

Mr. Proffitt indicated the review/revision of the Construction Standards is ongoing. The Review Committee has held several meetings. He noted that Board Member Bobby Mitchell is currently in the hospital. He updated the Board regarding U.S. Senate Bill 251 titled the Safe Prisons Communications Act of 2009, which is currently in the House, having passed the Senate, which Bill states:

“Amends the Communications Act of 1934 to authorize the director of the Federal Bureau of Prisons or the chief executive officer of a state to petition the Federal Communications Commission (FCC) to permit the installation of devices to prevent, jam, or interfere with wireless communications within the geographic boundaries of a specific prison, penitentiary, or correctional facility under his or her jurisdiction. Requires that the device be operated on a directional basis, using all other interference-limiting capabilities available to the device, or otherwise so that the device does not interfere with wireless communications that originate and terminate outside the area of the prison, penitentiary, or correctional facility. Requires the FCC to adopt a final rule establishing criteria for certification for the manufacture, sale, importation, and interstate shipment of such devices.”

This Bill refers to confiscated and contraband cell phones. Director Johnson indicated the Association of Southern Correctional Administrators is supportive of this effort. The FCC has argued it cannot block calls but there are products out there that can block calls just within prisons. The Department will follow this issue closely.

There were no further remarks. No further action by the Board was required.

VIII. Closed Session

By *MOTION* duly made by Mrs. Alksne and seconded by Mr. Blank, it was moved:

“That the Board reconvene in Closed Session pursuant to Section 2.2-3711 A.7. for consultation with legal counsel and briefings by staff members, consultants, or attorneys pertaining to actual or probably litigation or other specific legal matters requiring the provision of legal advise by counsel.”

The Motion was *APPROVED* by verbally responding to the roll call (Alksne, Blank, Burrell, Decker, Paige, Proffitt, Socas and Washington).

Messrs. Katz, Vorhis and Davis, Mrs. Jennings, Mr. Leininger, Mr. Jabe, Mr. Johnson and Mrs. Woodhouse remained in the room at the Board’s request.

The Closed Session was held. During the briefing, it became necessary for Mr. Blank to recuse himself. At the conclusion of the briefing and prior to the Roll Call Motion, Mr. Blank rejoined the Board.

Then, by *MOTION* duly made by Mr. Burrell and seconded by Mr. Washington, the Roll Call was read by Mrs. Woodhouse:

“Do you individually certify that to the best of your knowledge, 1) only public business matters lawfully exempted from Open Meeting requirements by Virginia law were discussed in the Closed Meeting and 2) only such business matters as were identified in the Motion convening the Closed Meeting were heard, discussed, or considered.”

Being polled, all members responded verbally in the affirmative. Mr. Mitchell was absent.

IX. Future Meeting Plans

Mrs. Alksne indicated she will contact Mr. Broughton regarding a date for the retreat. Consideration will be given to holding the retreat on a Thursday to accommodate personal schedules.

By *MOTION* duly made by Mr. Blank and seconded by Mr. Socas, it was decided to hold the Board retreat offsite on a date to be determined. The Motion was *APPROVED* by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Paige, Proffitt,

Socas and Washington). One member was absent.

The May 19, 2010, 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.

X. Adjournment

The meeting was adjourned by the Chairman.

(Signature copy on file)

STERLING C. PROFFITT, CHAIRMAN

RAYMOND W. MITCHELL, SECRETARY