

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	May 19, 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 James R. Socas B. A. Washington, Sr.
Absent.....	Rev. Anthony C. Paige Raymond W. Mitchell

1:00 p.m., Wednesday, May 19, 2010
6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. The Chairman welcomed everyone, and the roll was called. Two members were 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.

By **MOTION** duly made by Mr. Decker and seconded by Mrs. Alksne, the November Minutes were **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Decker, 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 were two absences, and Mr. Burrell's vote was not considered as he was not present at the November meeting. The Motion carried.

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

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

By **MOTION** duly made by Mr. Decker and seconded by Mrs. Alksne the March Minutes were **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, 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 were two absences. The Motion carried.

3) **Presentations to Outgoing Board Chairman Sterling C. Proffitt**

Mr. Decker presented a Resolution to the Chairman on the Board's behalf. As the Chairman departs, Mr. Decker stated he was glad to have the opportunity to make the presentation as well as to tell what a pleasure it has been to serve with him. He also stated he and the other Board members would miss him. Mr. Decker then read the body of the Resolution into the record:

***RESOLUTION RECOGNIZING STERLING C. PROFFITT
UPON HIS DEPARTURE FROM THE COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS***

On Motion of the Board of Corrections, the Following Resolution was Adopted:

WHEREAS, Sterling C. Proffitt has served the Commonwealth faithfully since July, 2002, when he was appointed to the Board of Corrections by then-Governor Mark R. Warner. Sterling C. Proffitt attended his first meeting as a member of the Board on September 18, 2002; and

WHEREAS, Sterling C. Proffitt has served the Board and the citizens of the Commonwealth in a non-partisan manner since that time under three Governors and four Board Chairmen with marked integrity while pursuing the letter and intent of the law; and

WHEREAS, during his almost eight years as a member in good standing, *Sterling C. Proffitt attended every meeting scheduled for the Board (a total of 49)* in addition to representing the Board at local jail groundbreakings and jail openings and actively participating in the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities Review Committee; and

WHEREAS, during his many years as a member of the Board, Chairman of the Board and, in that capacity, an ex-officio member of all standing Board Committees, Sterling C. Proffitt led many frank discussions regarding the treatment of inmates in local jails and state facilities, understanding the importance of his professional responsibility beyond the Board of Corrections and by so doing became an active proponent of issues important to the Commonwealth, the Department and his fellow Board members; and

WHEREAS, Sterling C. Proffitt, having served two full consecutive four-year terms, is not eligible for reappointment and will attend his last Board of Corrections meeting as a member in good standing on May 19, 2010.

NOW, THEREFORE BE IT RESOLVED, that the Board of Corrections, this 19th day of May, 2010, publicly recognizes the contributions of Sterling C. Proffitt to the Board, the Department and the citizens of the Commonwealth of Virginia;

AND, BE IT FURTHER RESOLVED, that the Board thanks him for his eight-year commitment, three and one-half years as Chairman;

AND, BE IT FINALLY RESOLVED, that a copy of this Resolution be presented to Sterling C. Proffitt and that this Resolution be permanently recorded and retained in the papers of the Board of Corrections.

s/s Cynthia M. Alksne, Jonathan T. Blank, James H. Burrell, Peter G. Decker, III, Raymond W. Mitchell, Rev. Anthony C. Paige, James R. Socas and B. A. Washington, Sr.

The Chairman thanked the Board and the Department for this honor. He stated his appreciation and respect for what staff does on a daily basis. He also thanked his current and past colleagues on the Board for their support over the years. He indicated he has enjoyed his time on the Board and looks forward to getting out on the links.

Director Johnson then presented a plaque to the Chairman on behalf of the Department. It read:

Distinguished Service Award
Presented to
Sterling C. Proffitt

In Recognition of
Exceptional Leadership And
Devoted Service to the
Virginia Department of Corrections
July, 2002, through June, 2010

With Our Thanks and Gratitude

Mr. Johnson thanked Mr. Proffitt for his years of dedicated service and congratulated him on his retirement from the Board. The Chairman again thanked everyone present.

At this time, Deputy Director Cookie Scott delivered a cake, which had been prepared by the DCE inmates at Indian Creek Correctional Center. The cake was styled showing the Great Seal of the Commonwealth with writing below, which read: "Chairman Sterling Proffitt. Thanks for the Years of Service to the Commonwealth of Virginia, Board of Corrections."

Then, by **MOTION** duly made by Mr. Decker and seconded by Mr. Socas, the Resolution was **APPROVED** as presented to be included in the papers of the Board by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Socas, Washington).

There were no questions and there was no discussion. There were no opposing votes. The Chairman abstained from the vote on the Motion. Two members were absent. The Motion carried.

4) **Selection of Nominating Committee to Elect Board Officers**

In addition to himself, the Chairman indicated that with the arrival of June 30, the Board could potentially lose three other members. As Board Vice Chairman James Burrell is one of the members facing reappointment, the Chairman felt it important to appoint a Nominating Committee for the election of Board Officers so that if a new Chairman is required for the next meeting, the remaining Board members would be prepared to vote on the Committee's selection at that meeting and elect new officers with the newly elected Chair taking over the running of the meeting. If Mr. Burrell is reappointed, no election would be necessary.

Mr. Proffitt felt this action necessary and explained that ordinarily if Mr. Burrell was not reappointed, Mr. Mitchell would become Acting Chairman, but because he is still out and uncertain as to his return, the question became how can the Board ensure that its business will go forward smoothly. The Chairman determined that by appointing a Nominating Committee, with Mrs. Alksne chairing and Messrs. Blank and Washington acting as Committee members, the Committee could meet and nominate its slate of officers and present its nominations for vote at the next meeting thereby seating an Acting Chair at that point. This would only occur if Mr. Burrell is not reappointed. If he is, no elections will be necessary.

Mr. Socas asked that as soon as the Board Office hears of any appointments/reappointments, that the Board members be advised. He was assured this would happen. Mr. Socas then suggested that it might be better to go ahead and nominate an Interim Chairman today by a full vote of the Board members present. That way, if Mr. Burrell is not reappointed and Mr. Mitchell has not returned, the Board can carry on its business with someone in the Chairman's spot who has previous experience on the Board. The Nominating Committee would proceed from that point.

Believing this to be a good suggestion, the members asked Mr. Washington if he would accept the position of Interim Chairman and temporarily act in that position for one meeting until new officers can be nominated and elected. It was emphasized that this would occur only if Mr. Burrell is not reappointed. Mr. Washington agreed to that request.

Mr. Socas indicated it might be a good idea to go ahead and vote officially on Mr. B. A. Washington being selected to act as Interim Board Chairman in the event that Mr. James Burrell is not reappointed.

Therefore, by **MOTION** duly made by Mr. Socas, seconded by Mr. Blank and unanimously **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Socas), Mr. B. A. Washington will become temporary Interim Chairman for the July meeting in the event that Mr. Burrell is not reappointed.

There was no other discussion. There were no opposing votes. Mr. Washington abstained from the vote. The Chairman voted his approval of the Motion. Two members were absent. The Motion carried.

II. Public/Other Comment (Mr. Proffitt)

There were no comments from members of the general public.

III. Presentations

There were no presentations scheduled this month.

IV. Liaison Committee (Mr. Burrell)

Mr. Burrell reported that Mrs. deSocio with the State Compensation Board was not available for the meeting. Mr. Bill Wilson reported the jail population to be down from 27,196 to 27,009, and the out-of-compliance figure to be 4,057. He indicated additional beds had opened up at New River Valley and Riverside Regional Jails, increasing jail capacity by approximately 963 beds. The prison population as of April 17, 2010, was 32,178, which figure includes 1,058 out-of-state contract inmates. Mrs. Lipp reported that the Grayson County facility will open in August of this year but there is no money to operate it. There is a skeleton staff on site. No inmates will be placed there.

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

IV. Administration Committee (Mr. Decker)

1) **Overtime Report for 3rd Quarter FY10 Ending March 31, 2010**

Mr. Decker thanked Ms. Cookie Scott for filling the Committee in on the latest overtime figures. He indicated the Department continues to do an exceptional job managing its overtime. Department-wide, overtime has decreased 26 percent over the same period last year. The vacancy rate is around 9 percent. Having nothing further, the Chairman thanked Mr. Decker for his report. No Board action is required.

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

With Board members, staff and several guests present, the Committee met to discuss several items:

1) **Board Motion to Approve Increased Jail Construction Funding for Prince William/Manassas Adult Detention Center for Jail Renovation Project**

In November, 2003, the Board approved construction funding for reimbursement of the Prince William/Manassas Regional Adult Detention Center expansion and renovation. The project was legislatively bifurcated to accommodate these two phases.

The expansion portion of the project was reimbursed at \$26,868,685 in July, 2009, after receiving approval by the Board for an increase in construction funding for reimbursement in the amount of \$12,696,592. The current request deals with the renovation portion of the project, which had an original approval amount of \$3,317,480 out of \$31,799,223 for the total project.

The Jail Board is requesting increased jail construction funding for the renovation portion of the project in the amount of \$2,086,485, which, with the previously approved amount of \$1,658,740, makes the total requested amount for the renovation to be \$3,745,225. This request is being made in accordance with enabling exemption language in the 2009 Acts of Assembly, Chapter 781, Item 388A.3.a.

This project experienced a high inflation rate between the time the project funding was approved in 2003 and the bidding of the project and the project encountered unknowns related to site work after the project was under construction. Bids for the renovation project were opened in January, 2009, but the contract was not awarded until June 2, 2009. The renovation originally provided a new inmate medical facility, a roll call room, physical training area for staff and locker rooms and showers for staff.

Subsequent to the original Board approval, additional renovations to relocate a 14-bed dormitory to become a 16-bed dormitory, a roof over the vehicular sallyport, an outdoor recreation area and space for additional video visitation were added to the project. The Jail Board acknowledges its choice to do some additional repairs to the facility and has identified those items and agreed the State should not participate in reimbursement of those specific items.

Staff has analyzed the requested costs and provided information on two proposed eligible amounts, one with the increased costs associated with the originally planned renovation and one with some work which was added after the original Board approval. Therefore, by *MOTION* duly made by Mr. Washington and seconded by Mr. Burrell,

“The Board of Corrections approves the Prince William/Manassas Regional Jail Board’s request for additional state funding for the Price William/Manassas Adult Detention Center’s renovation reimbursement in the amount of 50% of the additional project costs of \$4,172,970 with the state share being \$2,086,485. This

makes the total eligible project cost \$7,490,450 of which 50% is \$3,745,225. This approval is subject to the availability of funds and in compliance with Sections 53.1-80 through 82 of the Code of Virginia.”

Many questions and much discussion ensued regarding the Motion. Mr. Socas noted that as the costs went up on the project, the scope of the project had changed and asked if staff had approved that change. Staff responded that it cannot approve any increases without them coming to the Board. Staff indicated that the project specs had changed since the first time the Board had heard about the project when the cost was \$1,722,906. Staff presented two Motions for consideration and indicated it was not recommending one motion over the other because it wanted the Board to be able to see the differences where the additional items were listed. It was noted there had been some site work unknowns and some issues had come to light once they started taking walls down. Mr. Socas remarked this would happen in any renovation project and reiterated that if the Board approves a project, it is incumbent on the facility to stick with what was approved, and he did not see why the Board should fund the additional expense.

Representatives from Prince William/Manassas illustrated their reasons for proceeding with renovations that were different from what the Board had approved. They had discovered shortcomings in the existing facility and felt the time was right to go ahead and address those. Because the new 200-bed expansion included a new kitchen and loading dock that would service the entire jail complex, the Planning Study called for the old kitchen and loading dock to be left vacant and utilized for storage/warehouse space, which they felt was absurd.

Renovation of the existing jail originally included a new inmate medical facility, a 14-bed dormitory, a staff roll call room, a physical training room for staff and administrative offices. There was only one bathroom and shower for staff. To make productive use of the vacated space during the renovation project, they relocated a 14-bed dormitory to the vacant kitchen area, which allowed for an increase to 16 beds. The area that was originally designed for the 14-bed dormitory was redesigned into staff locker rooms and showers. Additionally, the vacated loading dock was converted into an outdoor recreation area. Other designed elements added to the renovation were the construction of a roof over the vehicular sallyport, the addition of video visitation equipment in the dormitory and the conversion of several existing rooms into sallyports.

The representatives were asked why they did not come to the Board before spending the additional money. The response was that in the grand scope of the \$10 million project, these changes amounted to less than 1% of the project costs, and not that 1% is a negligible amount but it was not a lot in the grand scheme of things and they would have made the changes anyway. They acknowledged they proceeded without approval but these were changes that if they did not do, the result would be the provision of less security. Mr. Blank asked what happens if the Board says no to the request. The Board was reminded it had already approved \$3 million for this project.

The Chairman noted the Motion and second on the Motion as previously read by Mr. Washington. Messrs. Blank, Burrell, Decker and Washington verbally responded in the affirmative. Mrs. Alksne and Mr. Socas verbally responded in the negative. The Chairman voted in the affirmative. Two members were absent. The **MOTION** was **APPROVED**.

At this time, Mr. Washington departed the Board meeting.

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

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

Unconditional Certification for Powhatan Correctional Center to include variances on Standards 4-4132, 4-4133, 4-4141, 4-4150, 4-4152 and 4-4270;

Unconditional Certification as a result of 100% compliance for Western Virginia Regional Jail, Blue Ridge Regional Jail (Lynchburg Adult Detention Center) to include male and female juveniles in accordance with §16.1-249 of the Code of Virginia and the Danville Adult Detention Center;

Unconditional Certification for Bristol City Jail, Rockbridge Regional Jail to include male and female juveniles in accordance with §16.1-249 of the Code of Virginia, Prince William/Manassas Adult Detention Center (100%) to include male and female juveniles in accordance with §16.1-249 of the Code of Virginia, Piedmont Regional Jail and the Culpeper Adult Detention Center;

And Unconditional Certification as a result of 100% compliance for Probation & Parole District #19 (Newport News).

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

There were no questions, comments or discussion. There were no opposing votes. There were two absences and Mr. Washington had departed the meeting. The Motion carried.

3) **Compliance and Accreditation**
Unannounced Inspections Section

a) **Board Motion to Approve Suspension of 2010 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, 2010, the following jails and lockups have achieved 100% compliance with Board Standards: Charlotte County Jail, Virginia Peninsula Regional Jail, Henry County Jail, Portsmouth City Jail, Western Virginia Regional Jail, Blue Ridge Regional Jail (Lynchburg Adult Detention Center) and Greene County Lockup.

Therefore, by *MOTION* duly made by Mr. Proffitt, seconded by Mrs. Alksne and verbally responded to in the affirmative (Alksne, Blank, Burrell, Decker, Proffitt, Socas), the following was *APPROVED*:

“The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2010 annual inspection for the Charlotte County Jail, Virginia Peninsula Regional Jail, Henry County Jail, Portsmouth City Jail, Western Virginia Regional Jail, Blue Ridge Regional Jail (Lynchburg Adult Detention Center) and Greene County Lockup.

During the call for question, Mr. Socas remarked that this had never made sense to him; that the incentive was not clear. The Chairman explained this process was rooted in the Code and sets out to eliminate redundant audits and inspections which fall in the same year when the auditee has attained 100% compliance with all Board Standards during its certification audit. He noted the Life, Health and Safety Standards only number 43 out of the 100-something Certification Audit Standards. This saves the facility money by not having to duplicate the same efforts expended under each review.

There were no other questions, comments or discussion. There were no opposing votes. There were two absences and Mr. Washington had departed the meeting. The Motion carried.

b) **Board Motion to Grant Appeal by Northern Neck Regional Jail to Finding of Non-Compliance with Standard 6VAC-15-40-1100 (Fire Safety Inspection) from Unannounced Inspection**

On January 20-21, 2010, the Northern Neck Regional Jail underwent its unannounced inspection. During the inspection, the jail was found to be out of compliance with Standard 6VAC15-40-1100 because the annual fire safety inspection was not performed within the 12-month period as set out in the Standard.

The jail had its previous fire safety inspection on July 23, 2008. Staff made several attempts to have the Fire Marshal conduct her inspection prior to the July 23, 2009, deadline. They were able to schedule an inspection on July 29, 2009, which was technically six days past the deadline. However, the Fire Marshal postponed that inspection until August 3, 2009, which passed the Standard deadline by one month.

Staff feels that every good-faith effort was made to have this inspection accomplished and therefore recommends that the facility's appeal to the finding of non-compliance be granted.

Therefore, by *MOTION* duly made by Mr. Proffitt, seconded by Mrs. Alksne and verbally responded to in the affirmative (Alksne, Blank, Burrell, Decker, Proffitt, Socas), the following was *APPROVED*:

“That the Northern Neck Regional Jail be granted a one-time exemption to Standard 6VAC15-40-1100 due to the fact that the staff made a good-faith effort to comply with the Standard and that its non-compliance was beyond its control.”

There were no other questions, comments or discussion. There were no opposing votes. There were two absences and Mr. Washington had departed the meeting. The Motion carried.

Mr. Socas noted that the Board was following the staff recommendation.

c) **Board Motion to Grant Appeal by Hampton City Jail to Finding of Non-Compliance with Standard 6VAC-15-40-1100 (Fire Safety Inspection) from Unannounced Inspection**

On March 30-31, 2010, the Hampton City Jail underwent its unannounced inspection. During the inspection, the jail was found to be out of compliance with Standard 6VAC15-40-1100 because the annual fire safety inspection was not performed within the 12-month period as set out in the Standard.

The jail had originally scheduled a fire safety inspection for February 9, 2010. This would have been within the allotted one-year timeframe. However, as the Assistant Fire Marshal wrote in her letter, she was unable to conduct the inspection as scheduled due to having to take required classes on that date. The inspection was rescheduled and occurred on March 25, 2010.

After reviewing documentation provided by the Sheriff, staff concurs that the timing of the annual fire safety inspection was beyond his control and recommends that the jail be granted a one-time appeal to the finding of non-compliance be granted.

Therefore, by *MOTION* duly made by Mr. Proffitt, seconded by Mr. Burrell and verbally responded to in the affirmative (Alksne, Blank, Burrell, Decker, Proffitt, Socas), the following was *APPROVED*:

“That the Hampton City Jail be granted a one-time exemption to Standard 6VAC15-40-1100 due to the fact that the staff made a good-faith effort to comply with the Standard and that its non-compliance was beyond its control.”

There were no other questions, comments or discussion. There were no opposing votes. There were two absences and Mr. Washington had departed the meeting. The Motion carried.

Additional comments followed. It was noted that Superintendent Frazier had a valid point in that when an unannounced inspector comes in and sees that a jail has tried to get a Fire Marshal in but the required inspection does not happen due to circumstances beyond his control, the facility should not found out of compliance and that it would be nice if the onsite inspector had some latitude on this. Unfortunately, at this time the regulations do not allow for such latitude.

It was asked if the Board could consider making a policy change or amendment to the Standard so that the inspector could make this judgment call. Mr. Katz indicated that such a change would require going through the APA process. The Director suggested that since this is a recurring issue, the Board may want to write a letter to whomever and point out that somebody needs to get these guys and gals on the ball.

Mr. Wilson reported that the State Fire Marshal is aware of the situation but that cutbacks in his offices statewide have affected their ability to perform these required inspections. To add more confusion, some statewide offices are under the State Fire Marshal inspections and other localities are under the local Fire Marshal, who is certified to do these inspections. Mr. Blank asked if there was a list of Fire Marshals to whom the Board could send a letter to all of them saying this is an inspection that is mandated, it has to be verified and we need to have them done timely.

After further discussion, it was agreed that the Board take the following action and by *MOTION* duly made by Mrs. Alksne, seconded by Mr. Blank and verbally approved by responding in the affirmative (Alksne, Blank, Burrell, Decker, Socas), the Board *APPROVED* the following:

“That the Board, under the Chairman’s signature, write a letter to all the Fire Marshals advising them that we are having difficulty getting these fire safety inspections scheduled in a timely manner, and we would like to work with them to come up with a system so that we no longer violate the State statute that states they [annual fire safety inspections] must be done within a year.”

The Chairman asked for any questions, comments or discussion. *Ms. Ballard suggested including in the letter the verbiage how far in advance do they need to be notified in order to have the inspection done by a certain date, which puts it back on the jurisdiction.*

There were no opposing votes. The Chairman noted his approval of the Motion. There were two absences and Mr. Washington had departed the meeting. The Motion carried.

4) **Compliance and Accreditation**
Unannounced Inspections Section

Mr. Proffitt announced all of the facilities which had achieved 100% compliance with Life, Health and Safety Standards during their unannounced inspections:

Albemarle/Charlottesville/Nelson Regional Jail, Arlington County Adult Detention Center, Botetourt/Craig Regional Jail, Blue Ridge Regional Jail (Bedford and Moneta), Eastern Shore Regional Jail, Floyd County Lockup, Fluvanna County Lockup, Galax City Lockup, Hampton City Jail, Northern Neck Regional Jail, Pamunkey Regional Jail, Riverside Regional Jail, Roanoke County Jail and Southwest Virginia Regional Jail (Abingdon and Duffield).

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

5) **Policy & Regulations**

a) **Board Motion to Approve Amended Model Plan as Required by §53.1-131.3 (7/09); Payment of Costs Associated with Prisoner Keep**

Mr. Wilson gave some history of the Model Plan. The 2003 session of the General Assembly passed House Bill 2765, which became effective July 1, 2003. This legislation amended the Code by adding a section numbered §53.1-131.3; Payment of Costs Associated with Prisoner Keep.

On September 17, 2003, the Board approved an Emergency Regulation in the form of a Model Plan as required. This Model Plan allowed the localities to collect up to \$1.00 per day from inmates for costs associated with prisoner keep. On May 19, 2004, the Board adopted an amendment to the Model Plan that would allow for those found not guilty on all filed charges to receive a refund of all collected fees.

During the 2009 General Assembly, that Code section was again amended to read as follows:

“Any sheriff or jail superintendent may establish a program to charge inmates a reasonable fee, not to exceed \$3.00 per day, to defray the costs associated with the prisoner’s keep. The Board shall develop a Model Plan and adopt regulations for such program and shall provide assistance, if requested, to the sheriff or jail superintendent in the implementation of such program. Such funds shall be retained in the locality where the funds were collected and shall be used for general jail purposes; however, in the event the jail is a regional jail, funds collected from any such fee shall be credited to the participating locality whose inmate was charged the fee. Any person jailed for an offense they are later acquitted of shall be refunded any such fees paid during their incarceration.”

It is recommended that since this language has changed and since the Board is in the process of revising the *Minimum Standards for Jails and Lockups*, the Board should consider that the Model Plan reflect these changes.

Mr. Socas asked if anyone had ever charged less than the minimum. The answer was yes and even some have charged nothing at all. The purpose of this change is to now document what the fee is, under what circumstances it is collected and this way the Model Plan says the jails cannot exceed what is allowed.

Therefore, by *MOTION* duly made by Mr. Proffitt, seconded by Mrs. Alksne and verbally approved by responding in the affirmative (Alksne, Blank, Burrell, Decker, Socas), the Board *APPROVES* the following:

“That the Board of Corrections approves the Model Plan as revised in conjunction with §53.1-131.3 of the Code of Virginia; payment of costs associated with prisoner keep. The revised Model Plan shall now read in its entirety:

Any sheriff or jail superintendent may establish a program to charge a reasonable fee, not to exceed those fees as set forth in §53.1-131.3 of the Code of Virginia.

Upon commitment of an inmate to a jail, intake processing *shall* include the issuance of a written statement informing the inmate of the fee for prisoner’s keep program and method of payment. Orientation *shall* include all pertinent information on fees and program areas. Inmate’s signature *shall* be required to document notification. ***If the inmate refuses to sign, the Officer requesting the signature may sign and give statement as to the inmate’s refusal.***

If the release date and date of arrival are within 24 hours, the inmate shall be charged the equivalent of one day’s fee.

Whenever an inmate has been charged the prisoner’s keep fee, the deduction shall be reflected on the inmate’s account. Should the inmate have no funds, then the account may be debited until funds are available.

Distribution or use of the collected fees shall be in accordance with §53.1-131.3 of the Code of Virginia and 6VAC15-40 of the Virginia Administrative Code.

The program shall include the following components:

1. There shall be written policy and procedure, unless federal/state contract precludes, which addresses items such as fee amount, inmate orientation and notification and refund procedures and accounting procedures, and which addresses if any inmates are exempted. Procedures shall include provisions for a refund to any person held in a jail/lockup who is adjudicated “not guilty” on all filed charges. Any person receiving deferred adjudication by the Court

pending community corrections programming or whose charges are dismissed/nolle prosequi as a result of successfully fulfilling another Court mandate shall not be eligible for a refund. Any inmate eligible for a refund must submit a request in writing within 60 days of his/her release. Refunds shall be made from the appropriate funding sources; e.g., commissary funds.

2. There shall be the development of administrative forms; and
3. Staff training for security and administrative personnel.

There were no opposing votes. The Chairman noted his approval of the Motion. There were two absences and Mr. Washington had departed the meeting. The Motion carried.

b) **Update to Legislative Double Bunking Capacities Report – COV Language Change**

The General Assembly has tasked the Board with performing a bunk-counting procedure to be presented by October 15, 2010. Mr. Wilson and Mrs. Alksne have come up with ways to do that.

Mr. Wilson provided a definition and history of how the Department rates its double bunking/double occupancy cells. Two years ago the legislature required that every project that the Board approved also include a double bunking capacity in that report. He was not double bunking maximum because ACA does not double bunk max but he was double bunking medium and minimum at 100 percent double bunking, and after sitting in on the construction committee meetings and everybody said you can't really 100 percent double bunk a dorm, he amended it to suggest 50 percent of that dorm be considered double bunked.

He indicated there are about 16 jails in the state which were built prior to 1980 that the Board does not have to look at their double bunking capacity unless they want to say 50 percent above whatever their rated capacity is because that is what the legislature considers overcrowded. For newer projects, it is pretty easy to look at their floor plans and say this is their max, this is their medium, this is their minimum and this is what the double bunking is: 100 percent for medium and minimum cells and 50 percent for dorms, and no double bunking in special purpose, temporary holding or maximum.

Mrs. Alksne state her take from talking with Dick Hickman at the Board Retreat is that it is not so much the term double bunking as much as us making a guess because if he makes a guess and you make a guess, we are still all guessing. She believes the Board should send something to these facilities, pull John Britton in to do a survey, send it to the facilities and get the information from the facilities on what their actual capacity is, and then compare that to Mr. Wilson's institutional knowledge and knowledge of the jail's plans and see if the Board can come up with a full report. This process would give the professionals in the localities a chance to explain what they have, it invests them in the process, it gives them a chance to say this is a medium-security unit but I use it for juveniles and therefore I can never use

it for multiple occupancy, and it gives them a chance to explain what their actual capacity is so the Board can get an accurate picture. She suggested to pick one date in time and ask, what is your number of beds? In that way, the Board would have a good snapshot of what the number of beds is in the State that the Board can provide to the legislature. The jails are going to want their input and whether they agree or not, at least they will have been heard.

The Chairman noted that there appears to be a perception that there is a large number of vacancies in jails, and he feels this exercise will dispel that perception. Jails need to understand what the Board needs, why it needs it and what we are going to do with it and also that the Board is not going to be subverted. Jails need to be part and parcel of this exercise, and which will go a long way toward helping the General Assembly understand that the truth of the matter is not what they thought.

Mr. Wilson provided two documents which showed jail overcrowding statewide. Using March data, the jails highlighted in blue are actually under their rated capacity. The jails in red are 150 percent and over their rated capacity. Almost all jails are over with Henry County probably being the worst.

Mr. Blank indicated that while he feels it is correct to do something to get the jails invested in the process, he is worried they are not going to respond. Mrs. Alksne suggested the Board send the survey out and if they do not respond, the Board can address it at that point. It is presumed that not many jails will have to be visited onsite for being non-compliant. The Director re-emphasized it is the number of beds being counted, not the number of inmates so it should not be a problem. Mr. Blank voiced concern about staff time, resources and the budget. Mr. Wilson stated whatever needs to be done will be done and as long as the Board has a preliminary report by the cutoff time, it will be okay.

Mrs. Alksne will prepare a letter outlining the Board's requirements, and Mr. Wilson will create a spreadsheet that will be attached and mailed individually to each facility.

There was no further comment or discussion. No action by the Board was required.

In addition, the Chairman provided an update as to where Board Standards 6VAC15-26, 6VAC15-28 and 6VAC15-40 are in the regulatory review process. 6VAC15-26 is in the Governor's Office for review, and 6VAC15-28 and 6VAC15-40 are in the Secretary's Office for review.

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

VI. Closed Session

No Closed Session was held.

VII. Other Business (Mr. Johnson)

The Director indicated an execution was scheduled for May 20, 2010.

He also reported that the Department currently has a Memorandum of Agreement (MOA) for service with Worldwide Automotives, trading as Remy (formerly Delco Remy). Inmates at Coffeewood Correctional Center provide the labor necessary to refurbish automobile starters at prevailing wages. Eighty inmates are currently involved in this venture, sometimes working two to three shifts. According to that MOA, Worldwide (Remy) must provide the Department with 60 days' notice of its intention to terminate the work agreement. The company has provided notice of its intention to quit Coffeewood in July of this year. The Department is currently exploring other possibilities for a service agreement for inmate work at Coffeewood. Another company has expressed interest.

The Director gave the Board a heads up in case they are contacted about the Eastern Shore Regional Jail reimbursement. The Director had fielded a call from a legislator expressing his concern that the locality had not received its approved additional state jail construction funds. The Director explained to the Board the process of how a jail gets its funding once the Board approves a project. It seems that the legislator for the area should have put in a budget request to the legislature in order for those funds to be included in the Budget, which did not happen, and the legislator has now contacted the Department stating the county needs the \$3 million that the state owes and what is the Department going to do about it. It was explained to him that there is nothing the Department can do.

The Director had nothing further. The Chairman thanked him for his update.

VIII. Board Member/Other Comment

Mr. Burrell indicated he had no specific comments but as this might be his last meeting, he wanted to say that it has been an honor to serve and that he hopes to be able to continue on the Board. He thanked the Chairman for the fantastic job he has done over the years and if he is reappointed, he hopes to do half the job the Chairman has. He thanked the staff and noted he has learned a lot and that serving on this Board has helped him with his service on his local criminal justice services board.

Mr. Socas indicated as this might be his last meeting, he, too, wanted to note that it has been an honor to serve. He indicated the off-site meeting had been the highlight of his time on the Board. He remarked that some of his first Board meetings had only lasted only 15 minutes, and he was pleased to note that the Board had grown in substance since that time and he has seen many positive changes. He reminded the Board of two outstanding issues: one, the action items from the retreat; and two, the idea of reconstructing the Board's subcommittees to be more in line with the Board's role as it now sees itself.

Mr. Proffitt indicated he had an opportunity to speak with Secretary Decker at the Correctional Officers' Week Ceremony where she indicated the probability of another Board Retreat in the fall as it is good orientation for all members and provides a place where the Board can provide input on action items. He closed with a quote from Shakespeare's play, *Julius Caesar*.

IX. Future Meeting Plans (not discussed)

The July 21, 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

By **MOTION** duly made by Mr. Blank, seconded by Mr. Socas and **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Burrell, Decker, Socas), the meeting was adjourned.

There were no opposing votes. The Chairman noted his approval of the Motion. There were two absences and Mr. Washington had departed the meeting. The Motion carried.

(Signature copy on file)

PETER G. DECKER, III, CHAIRMAN

CYNTHIA M. ALKSNE, SECRETARY