

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	March 19, 2008
Location	6900 Atmore Drive Richmond, Virginia
Presiding	Sterling C. Proffitt, Chairman
Present	James H. Burrell Jacqueline F. Fraser Raymond W. Mitchell James R. Socas W. Randy Wright
Absent	Peter G. Decker, III W. Alvin Hudson, Jr. Gregory M. Kallen

1:00 p.m., Wednesday, March 19, 2008
6900 Atmore Drive, Richmond, Virginia 23225

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

I. Board Chairman (Mr. Proffitt)

1) Motion to Approve September Board Minutes

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

By **MOTION** duly made by Ms. Fraser and seconded by Mr. Burrell, the minutes were **APPROVED** as presented by verbally responding in the affirmative (Burrell, Fraser, 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. Three members were absent. Mr. Mitchell did not vote as he was not present at the September meeting. The Motion carried.

2) Motion to Approve November Board Minutes

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

II. Public/Other Comment

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

III. Presentation to the Board

There were no presentations scheduled for the Board. Mr. Johnson noted site work is underway at the Grayson County facility. In addition, he reported the Department has entered into a contract with Wyoming to house some of their prisoners. They will be arriving shortly and will be distributed among several facilities.

Mr. Jabe was present and introduced two Regional Directors for Operations being Mr. Larry W. Huffman for the Western Region and Mr. A. David Robinson for the Eastern Region.

Mr. Socas asked if the Director could comment on the budget as to what the proposed reductions would mean to the Department and how they will be handled. Mr. Johnson turned the conversation over to Ms. Scott, who stated the Department has already weathered an \$18.9 million reduction from its bottom line and there might yet be an additional .5 percent this fiscal year (2008). She indicated the budget picture is still bleak but perhaps a little less so. The Department will experience a \$19.2 million cut next fiscal year, which begins in July. The Department is standing by for final word once the Governor signs the Budget Bill. Ms. Scott indicated the out-of-state contract is expected to offset part of the \$19.2 million cut. Additionally, Mr. Barry Green spoke to the re-entry package, which the Governor and Senate supported but the House did not, and which costs must now be absorbed elsewhere. He also noted as there has been a \$50 million reduction in local aid, the Department might have issues if money is taken from jails.

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

IV. Liaison Committee (Mr. Burrell)

Mr. Burrell noted he and members of the Committee met on March 19, 2008, with Mr. Chris Webb chairing the meeting.

During the meeting, Mr. Wilson reported the out-of-compliance number as 1,534. Ms. Lipp reported that Pocahontas and Green Rock are on line; St Brides Phase II is complete and is expected to load in July of this year, and she mentioned that ground had been broken at the Grayson County site but some delays had been experienced due to inclement weather. Ms. DeSocio spoke about several funding reductions and some of the challenges that will be faced by the Commonwealth over the next two years as a result of the budget shortfall.

There were no questions, comments or discussion of Mr. Burrell's report. No Board action on the report is required.

V. Administration Committee (Mr. Socas)

As Mr. Kallen and Mr. Wright were not available for the Committee meeting, Mr. Socas presented the agenda items to the full Board for review and action.

1) **FY2008 2nd Quarter Overtime Report for Period Ended December 31, 2007**

Mr. Socas commented that mathematically speaking, overtime was up during this period due to budget cuts. It was indicated the Department is holding positions open to save money, which directly impacts current resources. In addition, Ms. Scott offered that overtime during the period (October 1 through December 31, 2007) was impacted to the tune of approximately \$300,000 as a result of the manhunt and capture of escaped prisoner Alonzo Logan from Dillwyn Correctional Center. It is hoped that the Department will receive funding consideration from the Governor to recoup some of the costs related to this event.

2) **Board Motion to Approve Acquisition of VCE Headquarters and Distribution Center (land and building) pursuant to Item C-279 of the 2007 Appropriation Act**

Mr. Socas stated that Governor Kaine authorized the establishment of a capital project under the authority of the *2007 Acts of Assembly*, Chapter 847, Item C-279, for Virginia correctional Enterprises (VCE) to exercise its option, under its current capital lease, to purchase the VCE administrative headquarters/distribution center. The lease contains a \$1 purchase option.

In order to accomplish this, approval by the Board is required. Therefore, the following *MOTION*, duly made by Mr. Socas and seconded by Mr. Burrell, was *APPROVED* as presented by verbally responding in the affirmative (Burrell, Fraser, Mitchell, Socas, Wright).

“The Board of Corrections hereby approves the acquisition of the land (approximately 5.57 acres) and building(s) known as the Virginia correctional Enterprises administrative headquarters/distribution center, and further authorizes the Director of the Department of Corrections to sign documents and take other actions necessary to finalize the transaction.”

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

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

The Committee met on March 19, 2008, and discussed several items.

1) **Board Motion on Request by Eastern Shore Regional Jail for Approval of Modifications to Standards 5.41 B as well as 6.1 and 6.2 of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities**

Eastern Shore Regional Jail has been constructed to house 148 inmates. Associated with this project is a request from the Eastern Shore Regional Jail Board to approve modifications to Standards 5.41 B (glazing) and Standards 6.1 and 6.2 (community custody separation from secure facility) of the *Standards for Planning, Design,*

Construction and Reimbursement of Local Correctional Facilities. The Jail Board and Sheriff feel that to meet Standards at this time would be very costly and their method of operation compensates for the need to have these Standards met.

There was much discussion concerning the request during the Committee meeting, with the architect and his attorney, the Sheriff, Commonwealth's Attorney and others in attendance. As to Standard 5.41 B, glazing on security windows already installed is deemed to be substandard by staff. However, in his argument, the attorney found fault with the Standard and argued that even through Standard 5.41 B requires the window glazing to be able to withstand a 30-minute physical assault, the Standards do not indicate an assault from what. When all was said and done, the facility compromised and agreed to put bars no more than 5 inches apart on some of the windows but not all of them. Mr. Proffitt then asked the architect to put a figure on that compromise, which he did. After further discussion, it was agreed that the facility will put bars on the windows, which will allow the facility to meet the Standard; therefore, the Committee's recommendation is that no Board action is required on this modification request.

Standard 6.1 requires community custody housing to be separated from the secure portion of the facility. The intent of the Standard is so that building design prevents community custody (work release) inmates to cross traffic paths with those held in secure custody in order to avoid problems, such as contraband. At this facility, this is not the case. Secure and non-secure custody will be sharing a path. Before construction began, the owner and architect were advised of non-compliance. Since that time, construction has continued and the architect has not come to an agreement with staff regarding this situation. However, after discussion, it was agreed to recommend to the Board to accept a waiver to this Standard.

Therefore, by **MOTION** duly made by Mr. Proffitt and seconded by Ms. Fraser, it was moved that, **"To facilitate an operational decision by the Eastern Shore Regional Jail, the Board of Corrections grants a modification to Standards 6.1 and 6.2 of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities to allow the community custody portion of the facility and the secure portion to be unseparated by having a shared path of travel. This modification approval shall not be construed as a future modification or variance to Standards 6.1 and 6.2 for this or any other facility."**

During the call for question or comment, Mr. Socas asked if this was a new facility or if this facility was improperly built from the beginning, thus necessitating the request for modification. Mr. Proffitt responded that this is a new facility, and the Board Standards have been in place for many years. Mr. Socas then suggested this was an oversight failure on the part of the owner over the architect, and as such, the responsibility would fall with the architect so why wouldn't the owner sue the architect? And further, if an established system has Standards which require putting in a certain glass or constructing so as to avoid community custody and secure custody having a shared path of travel, those Standards should be met, regardless, and the owner should be held accountable but that the Board should not waiver from them. Mr. Socas then went on to ask the Director if it was more prudent to take a

hard line on this request or if this is considered a minor issue. The Director responded that the Department must adhere to Board Standards whether they like them or not.

There was no further comment or discussion. At the call for the question, Ms. Fraser and Messrs. Burrell, Mitchell and Wright voted in favor of the motion by verbally responding in the affirmative. Mr. Socas voted in opposition to the Motion. The Chairman voted his approval of the Motion. Three members were absent. The Motion was **APPROVED**.

2) **Board Motion to Exempt Northern Neck Regional Jail From the Requirement of Having to Obtain Approval of the Board Prior to Authorizing Construction as Stipulated by Item 384 D.1. of the 2006 Appropriation Act**

Northern Neck Regional Jail recently completed construction, which added approximately 1,400 square feet of dormitory space to the facility. This construction was completed after July 1, 2006, after the 2006 Appropriation Act went into effect. Item 384 D.1. of the 2006 Budget Bill states: “No city, county, town or regional jail shall authorize the construction, remodeling, renovation or rehabilitation of any facility to house any inmate in secure custody which results in increased jail capacity with the prior approval of the Board of Corrections.”

Administrators of the Northern Neck Regional Jail provided documentation showing a signed letter of agreement with Moseley Architects dated December 12, 2005, along with approval of Schematic Design Phase documents dated April 17, 2006, both well before Item 384 D.1. went into effect. Planning and permit documents for the project also dated prior to July 1, 2006. In addition, an exemption to Item 384 D.1. was previously granted by the Board to Portsmouth City Jail.

Therefore, the Northern Neck Regional Jail Authority is requesting a waiver to Item 384 D.1. as the project was started before the language took effect. The facility did not ask for an exemption from the current jail construction funding moratorium and will, therefore, be ineligible for any increase in rated capacity or staffing due to their increased number of beds.

Therefore, by **MOTION** duly made by Mr. Proffitt and seconded by Mr. Mitchell, it was moved **“That since the Northern Neck Regional Jail expansion was in the planning phase and letters of agreement had been signed prior to July 1, 2006, and because the Northern Neck Regional Jail is using local funds for construction, that the Northern Neck Regional Jail Authority is exempt from the 2006 Budget Bill Item 384 D.1. requirement of having to obtain Board of Corrections approval prior to authorizing construction.”**

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

3) **Compliance and Accreditation
Certifications Section**

Mr. Proffitt presented the following certification recommendations for consideration on behalf of the Committee:

Unconditional Certification as a result of their ACA Audit for: Lunenburg Correctional Center and the Academy for Staff Development (100% compliance);

and Unconditional Certification with 100% compliance for: Blacksburg Town Lockup; Blackstone Lockup; Highland County Lockup; Northern Neck Regional Jail to include certification to hold male and female juveniles in accordance with Section 16.1-249.G of the Code of Virginia; Alleghany/Covington Regional Jail; and Floyd County Lockup to include certification to hold male and female juveniles in accordance with Section 16.1-249.G of the Code of Virginia;

and Unconditional Certification for: Danville Adult Detention Center; Fauquier County Jail; and Western Tidewater Regional Jail to include certification to hold male and female juveniles in accordance with Section 16.1-249.G of the Code of Virginia;

and Unconditional Certification as a result of their ACA Audit for: Peumansend Creek Regional Jail with 100% compliance; Arlington County Jail; and Alexandria Adult Detention Center;

and Unconditional Certification as a result of 100% compliance for: Probation and Parole Districts 30 (Hampton); 8 (South Boston); 31 (Chesapeake); 10 (Arlington); 26 (Culpeper);

and Unconditional Certification for: Probation and Parole Districts 19 (Newport News); 17 (Abingdon); 41 (Ashland); and 43 (Tazewell).

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

4) **Board Motion to Approve Suspension of Unannounced Annual Inspection**

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 100% compliance with Standards has been attained in the jail's triennial Certification Audit. Therefore,

“The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2008 annual

inspection for Northern Neck Regional Jail; Alleghany/Covington Regional Jail; Southampton County Jail; and Highland County Lockup.”

The *MOTION*, duly made by Mr. Proffitt and seconded by Mr. Mitchell, was *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Mitchell, Socas, Wright). There were no questions, comments or discussion. There were no opposing votes. The Chairman then voted his approval of the Motion. Three members were absent. The Motion carried.

5) **Discussion Regarding ACA Standard 4-4328**

This *Standard* reads: "Written policy, procedure and practice require that at least three meals (including two hot meals) are provided at regular meal times during each 24-hour period, with no more than 14 hours between the evening meal and breakfast. Variations may be allowed based on weekend and holiday food service demands provided basic nutritional goals are met."

Letters of complaint have been received from inmates stating that this *Standard* is not being followed. The Board requested that the Department send letters to all facilities to which this *Standard* applies, alerting them to the complaints and reminding them they are expected to follow the *Standard* and auditors will be following up on this.

6) **Policy & Regulations**

a) **Standards for State Community Corrections Units (6VAC 15-62)**

These regulations are currently under review by the Department of Planning & Budget.

VII. Closed Session

No Closed Session was held.

VIII. Other Business

There was no other business.

IX. Board Member/Other Comment

The members were polled. Ms. Fraser thanked Mr. Proffitt for chairing the Correctional Services Committee meeting in her absence. Mr. Proffitt noted he attended the funeral of former Board Member George Bailey, who passed in January. And the Chairman indicated he will be attending the Virginia Association of Regional Jail's Annual Conference in Virginia Beach the first of April.

X. Future Meeting Plans

The following information has been provided to Board Members previously and is provided now for the purposes of the record.

The May 21, 2008, meetings are scheduled as follows:

Liaison Committee – 10:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

Correctional Services/Policy & Regulations Committee – 11:00 a.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

Administration Committee – 12:30 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia;

And Board Meeting – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia.

The Chairman noted that at the end of the May meetings, the Board will decide whether to continue the one-day session.

The Chairman then went on to recognize Mrs. Carol Sievers, in attendance at the meeting representing the Virginia Parole Board, and thanked her for her interest. He also noted Mr. Barry Green and Ms. Dawn Smith, in attendance from the Office of the Secretary of Public Safety.

XI. Adjournment

There being nothing further, by *MOTION* duly made by Mr. Mitchell, seconded by Mr. Socas and unanimously *APPROVED* (Burrell, Fraser, Mitchell, Socas, Wright), the meeting was adjourned. There was no discussion. The Chairman voted his approval of the move to adjourn. The Motion carried.

(Signature copy on file)

STERLING C. PROFFITT, CHAIRMAN

RAYMOND W. MITCHELL, SECRETARY