

**COMMONWEALTH OF VIRGINIA**  
**BOARD OF CORRECTIONS**

Regular Meeting	September 15, 2010
Location .....	6900 Atmore Drive Richmond, Virginia
Presiding.....	Peter G. Decker, III, Chairman
Present .....	Cynthia M. Alksne Jonathan T. Blank Felipe Q. Cabacoy Kurt A. Boshart William E. Osborne Rev. Anthony C. Paige B. A. Washington, Sr.
Absent.....	Raymond W. Mitchell

**1:00 p.m., Wednesday, September 15, 2010**  
6900 Atmore Drive, Richmond, Virginia 23225

The meeting was called to order. Chairman Decker welcomed everyone, and the roll was called. Eight members were present and Mr. Raymond Mitchell was absent as indicated above. A quorum was present.

The Chairman then asked meeting attendees to identify themselves for the record.

**I. Board Chairman (Mr. Decker)**

**1) Introduction and Welcome: Newest Board Members Messrs. Kurt A. Boshart, Felipe Q. Cabacoy and William E. Osborne**

Chairman Decker welcomed new Board members Boshart, Osborne and Cabacoy. Lt. Boshart was introduced at the July meeting and welcomed again. He is a Lieutenant with the Harrisonburg Police Department. Mr. Osborne is a former Sheriff and hails from Tazewell County. He was previously on the Board back in the 90s. He is celebrating his birthday today. Mr. Cabacoy is a fellow “Norfolkian,” who worked with Sheriff McCabe for many years before his retirement from the Sheriff’s Office.

**2) Presentation to Former Board Member Mr. James H. Burrell**

Chairman Decker welcomed Mr. Burrell back for the presentation. He remarked what an honor it has been to serve with him and to be able to present him this Resolution. Mr. Burrell had served with him for over four years.

Then, by *MOTION* duly made by Mr. Decker, the Resolution was read into the record:

***RESOLUTION RECOGNIZING JAMES H. BURRELL  
UPON HIS DEPARTURE FROM THE COMMONWEALTH OF VIRGINIA  
BOARD OF CORRECTIONS***

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

**WHEREAS**, James H. Burrell has served the Commonwealth faithfully since June, 2003, when he was appointed to the Board of Corrections by then-Governor Mark R. Warner. James H. Burrell attended his first meeting as a member of the Board on July 16, 2003; and

**WHEREAS**, James H. Burrell has served the Board and the citizens of the Commonwealth in a non-partisan manner since that time under Governors Warner and Kaine and Board Chairmen Hester and Proffitt with marked integrity while pursuing the letter and intent of the law; and

**WHEREAS**, during his seven years as a member in good standing, attended and actively participated in as many scheduled meetings as practicable; and

**WHEREAS**, during his many years as a member of the Board, James H. Burrell participated in 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**, James H. Burrell, having served three years of the term of another Board member as well as having completed his own four-year term, was not reappointed by Governor McDonnell and attended his last Board of Corrections meeting as a member in good standing on July 21, 2010.

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Corrections, this 15th day of September, 2010, publicly recognizes the contributions of James H. Burrell 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 seven-year commitment to the Commonwealth;

**AND, BE IT FINALLY RESOLVED**, that a copy of this Resolution be presented to James H. Burrell 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, Kurt A. Boshart, Felipe Q. Cabacoy,  
Peter G. Decker, III, Raymond W. Mitchell, William E. Osborne, Rev.  
Anthony C. Paige and B. A. Washington, Sr.

After the presentation, Mr. Burrell thanked the Chairman for his kind words. Then, photographs were taken of the Chairman with Mr. Burrell displaying his Resolution and of Mr. Burrell with all of the members of the Board. Mr. Burrell stated how grateful he was to the Governors who had appointed him. For the future, he hopes that word gets to the Legislature about getting more money for prevention and to get the Legislature to look at the laws, especially those affecting non-violent offenders.

The Motion was seconded by Mrs. Alksne and duly **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Osborne, Paige, Washington).

There were no 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. Mr. Burrell departed from the meeting.

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

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

By a quorum of those members present at the May meeting and by **MOTION** duly made by Mrs. Alksne and seconded by Mr. Washington, the May Board Minutes were **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Paige, 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 votes of Messrs. Boshart, Cabacoy and Osborne were not considered as they were not present at the May meeting. The Motion carried.

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

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

By a quorum of those members present at the July meeting and by **MOTION** duly made by Mrs. Alksne and seconded by Mr. Washington, the July Board Minutes were **APPROVED** by verbally responding in the affirmative (Alksne, Paige, 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 votes of Messrs. Boshart, Cabacoy and Osborne were not considered as they were not present at the July meeting (Mr. Boshart was present but not in an official capacity). Mr. Blank was listening telephonically so was not physically present at the meeting and his vote, therefore, was not considered. The Motion carried.

## **II. Public/Other Comment (Mr. Decker)**

Ms. Jay George with Exodus was present and again posed several questions to the Director. No questions were posed to the Board. No action by the Board was required.

The Chairman redirected the attention of the Board back to item 5) under Roman Numeral I:

### **5) Proposed Meeting Dates for 2011**

The dates were provided to the full Board. The Chairman asked that if anyone has any problems with the dates, as presented, to please let him know. If he hears nothing, the Board meeting dates for 2011 as presented will be voted on in October.

## **III. Presentations**

There were no presentations scheduled this month.

## **IV. Liaison Committee (Mr. Osborne)**

Mr. Osborne reported that the main item Mrs. DeSocio spoke to was that there is no money. Mrs. Lipp reported that \$700,000 was allocated to keep limited staff at the Grayson County facility. These staff members ensure the continued functioning of the electric, water and sewer systems. Mrs. Lipp also provided pictures of the facility at night. Mrs. Alksne remarked that it is frustrating to be spending \$700,000 at a facility with no inmates.

Mrs. Alksne reported the out-of-compliance figure is down from 4,500 to 3,300.

It was noted that seven facilities have not submitted their jail bed capacity analyses. It is anticipated to request an extension from the Legislature to the October 1, 2010, deadline. Mr. Wilson stated two reasons for the seven facilities not complying with the request: some had not received the initial email and several have been contacted two and three times to no avail. He indicated he may have to go to those facilities and do a manual count.

There were no questions. Mr. Osborne and Mrs. Alksne's report was concluded. No Board action was required.

## **V. Administration Committee (Mr. Blank)**

There were no agenda items scheduled this month. Mr. Blank asked if there are any issues the Administration side of the house that the Board would like the Committee to look at.

Reverend Paige asked what the process is going to be for having the budget come to the Board prior to its submission as required in the Code. Deputy Director Scott explained the process, in some detail. Mrs. Alksne stated the Board wants to be in the loop. Mr. Blank reiterated that if the Statute says the Board is supposed to review the budget prior to its

submission, he would like to try to comply with that mandate. Reverend Paige emphasized he is not trying to micromanage how the Department spends dollars but it is the Board's responsibility to approve the budget so how is that going to happen. He suggested that if the Board is in a situation where it will not have an opportunity to review the budget prior to its submission, he would be satisfied just to put in the record that the Board did not have that opportunity. That way, no one could come back and say the Board of Corrections is not doing its job.

Deputy Director Scott will provide whatever information and input the Board needs.

#### **VI. Correctional Services Committee Report/Policy & Regulations (Mrs. Alksne)**

During a lively committee meeting, the following items were reviewed:

- 1) **Board Motion by Blue Ridge Regional Jail Authority to Grant Modification to Standards 5.4 and 5.3.C. (6VAC15-80 §340 and §350) of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities for the new facility serving Appomattox and Amherst Counties**

The first item for discussion was the request by Blue Ridge Regional Jail Authority to install double bunks. Traditionally, the Board has allowed this. Superintendent Blackstock reported that while the facility is rated for 380, it will house 630 with double bunking. He indicated it is cheaper for the locality to put the beds in during construction and that having the additional bunk is not a safety issue; thus, the Jail Authority is requesting the modification to Standards. Mrs. Alksne did report that inmates are outside their cells 10 hours per day.

After some discussion, Mrs. Alksne proposed the following **MOTION**:

“To facilitate an operational decision by the Blue Ridge Regional Jail Authority, the Board of Corrections grants a modification to Standards 5.4 and 5.3.C. (6VAC15-80 §340 and §350) of the *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (1994)* to allow the installation of additional beds in housing units in the Blue Ridge Regional Jail, Amherst facility, prior to final inspection of the facility. This approval does not increase the Operational Capacity of the facility relative to staffing and does not authorize State reimbursement for the cost of the additional bunks or their installation. This modification shall not be construed as a future variance to Board Standards 5.3.C. or 5.4 for this facility or as a current or future variance for any other facility.”

The Motion was seconded by Mr. Washington and duly **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Osborne, Paige, Washington).

Mr. Blank emphasized that although to date granting such a modification has not posed a safety issue, the Standards need updating. Mr. Cabacoy agreed.

There were no 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.

Mrs. Lipp noted that the Standards Review Committee has been meeting two times a month and is about two-thirds of the way through its review. Mr. Blank suggested that as the process is taking such a long time, perhaps a deadline for completion should be set for the Committee. Mrs. Woodhouse advised the Board that even with a deadline for completion in place, once the Board approves the proposed revisions, they still have to go through the APA process, which takes an additional 360 days.

2) **Board Motion by Meherrin River Regional Jail Authority to Grant Modification to Standards 5.4 and 5.3.C. (6VAC15-80 §340 and §350) of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities for its new regional jail facility**

Meherrin is experiencing a similar issue to Blue Ridge. That facility is rated for 400 beds but will house 728 beds. The Sheriff of Brunswick County reports that when they designed the facility for 400, they built in additional kitchen, ventilation and other services to accommodate 600 beds and when it opens, they will need 500 beds.

There was no further discussion. Therefore, Mrs. Alksne offered the following **MOTION**:

“To facilitate an operational decision by the Meherrin River Regional Jail Authority, the Board of Corrections grants a modification to Standards 5.4 and 5.3.C. (6VAC15-80 §340 and §350) of the *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (1994)* to allow the installation of additional beds in housing units in the Meherrin River Regional Jail prior to final inspection of the facility. This approval does not increase the Operational Capacity of the facility relative to staffing and does not authorize State reimbursement for the cost of the additional bunks or their installation. This modification shall not be construed as a future variance to Board Standards 5.3.C. or 5.4 for this facility or as a current or future variance for any other facility.”

The Motion was seconded by Reverend Paige and duly **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Osborne, Paige, Washington).

There were no 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.

Mr. Boshart indicated he would like a copy of the Construction Standards.

3) **Stellar Residential Services, Inc.**

This facility first came to the attention of the Board during the July meeting. It was reported that the facility had been audited in January, 2010, and found out of compliance with Standard 6VAC15-70-50F: there was no documentation of an annual independent financial audit of the agency performed by a certified public accounting firm or a governmental auditing agency.

As a result of that report, the facility was placed on probationary certification with the understanding it would complete the required independent financial audit in time for the September meeting at which time a report would be made to the Board. To date, no documentation has been received which establishes the financial audit has been properly completed.

Ms. Hill-Murray indicated the Department's Inspector General's Internal Auditing Unit would perform a financial audit but it might not occur before January of 2011. If the Board waits until January, this would mean a year had passed from the date of the original audit with no documentation having been provided to show that the required audit had been performed. Mr. Boshart stated that red flags are being raised, and the longer it drags on, the worse it will get. As a result, Mrs. Alksne made the following **MOTION**:

"The facility has 30 days to complete the financial audit. If it is not completed, the facility will be decertified."

The Motion was seconded by Mr. Blank. During the call for question or discussion, it was decided to withdraw this Motion in favor of the following **MOTION**, duly made by Mrs. Alksne:

"The Board of Corrections extends the probationary certification for Stellar Residential Services, Inc., for 30 days in order for the Department's Inspector General to perform an independent financial audit. If the facility does not cooperate, it will be decertified."

The Motion was seconded by Mr. Washington and duly **APPROVED** by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Osborne, Paige, Washington).

There were no 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.

4) **Discussion of Rockbridge Regional Jail Expansion**

This item is on hold.

5) **Board Motion to Suspend Certain Unannounced Inspections**

Section 53.1-68 of the Code of Virginia authorizes the Board of Corrections to grant suspensions of annual Life, Health and Safety Inspections if full compliance with Standards has been attained during the jail's triennial Certification Audit. The following jails and lockups have achieved 100% compliance with Board Standards. They are as follows: Petersburg City Jail and Annex, Southwest Virginia Regional Jail (Tazewell), Rappahannock Regional Jail, Norfolk City Jail, Galax City Lockup, Bath County Lockup, Virginia Beach Lockup #2 and Surry County Lockup.

Therefore, by **MOTION** duly made by Mrs. Alksne and seconded by Mr. Washington:

“The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2010 annual inspection for the Petersburg City Jail and Annex, Southwest Virginia Regional Jail (Tazewell), Rappahannock Regional Jail, Norfolk City Jail, Galax City Lockup, Bath County Lockup, Virginia Beach Lockup #2 and the Surry County Lockup.”

The Motion was unanimously approved by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Osborne, Paige, Washington).

There were no 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.

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

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

**Unconditional Certification as a result of 100% compliance for Bland Correctional Center and Surry County Lockup;**

**and Unconditional Certification for Danville City Jail, Dinwiddie County Jail, Piedmont House and Dorcus House Residential Program.**

Therefore, By **MOTION** duly made by Mrs. Alksne and seconded by Reverend Paige, the Board **APPROVED** the above recommendations by verbally responding in the affirmative (Alksne, Blank, Boshart, Cabacoy, Osborne, Paige, Washington).

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

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

Facilities achieving 100% compliance with Life, Health and Safety Standards during their unannounced annual inspections are listed in bold on the agenda.

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

8) **Policy & Regulations**

There was nothing to review this month. Two items provided for Board information were:

Hampton City Jail advises it is fixing up its kitchen and there will not be two hot meals provided for one day. In addition, as a follow up from July, correspondence was received from the City of Chesapeake City Manager in response to the Chairman's July 27 letter regarding construction of several temporary housing buildings without having submitted proper documentation or plans to the Board. Mr. Decker reported he has spoken with Sheriff Newhart and no inmates are being housed in the buildings in question and that Mr. Wilson should contact Captain O'Sullivan for further information.

No official action by the Board is necessary at this time.

**VII. Closed Session**

No Closed Session was held.

**VIII. Other Business (Mr. Johnson)**

Mr. Leininger updated the Board regarding PREA and the change to death row video visitation, two items of particular interest since the last Board Meeting. The change to death row video visitation has been rescinded. Video visitation is still in place for segregation and death row visits remain non-contact.

The PREA report was not a surprise to Department management. In response to questions from the Secretary, the Department put together a PREA timeline, which was provided to the Board. Changes to management have been made at the facility, investigations were reviewed and PREA complaints counted. A hotline was instituted back in 2008; since that time, there has been only one hotline complaint and it did not involve sexual activity.

Mrs. Alksne voiced her frustration over the fact that she saw the PREA story online before being advised by the Department. The Director stated the Department also found out about it online. Mrs. Alksne noted there was some unflattering information regarding FCCW indicated in the Department of Justice Bureau of Justice Statistics report. The Department has compiled its own PREA report on Fluvanna, and the Director indicated he would provide a copy of that report to the Board.

The Director went over Judge Turk's recent ruling on a challenge to the Department's Publications policy. He indicated that unfortunately, some members of the Publications Review Committee were using personal concerns as a reason for denying publications as opposed to denying publications because they were a security issue, and before a change could be made to the process, Judge Turk made his ruling, said the policy was crazy and told us we had 60 days to make the necessary changes, which were already in the works. Mr. Blank indicated he would like to see the new policy, once it is in place.

The Director also spoke about the execution set for September 23, 2010. He explained there had been some difficulty securing the requisite drugs but everything has been obtained and the Department is ready to go.

The Director had nothing further. The Chairman thanked him for the information.

**IX. Board Member/Other Comment**

Reverend Paige stated he has been troubled since the last meeting regarding HIV/AIDS testing. The Department had stated it follows the CDC standards for medications for individuals coming into the Department who are already diagnosed and the option was there for individuals to be tested if they wanted to be. He noted there has been a great rise of HIV in the community and sees no reason why people coming into and being released from the system should not be tested. He feels a policy change must be made; that this is not an individual or staff decision because we are talking about saving lives and that this is an epidemic. He is requesting a revision to whatever policy is in place and requesting the testing of every one coming into the system. He noted they test for TB in the jails and if they can do that, then the Department can do an HIV test. He feels this is a Board of Corrections' responsibility, and he stated he is going to ask the Governor what can be done.

Mr. Johnson indicated he has no problem with the suggestion. He suggested that Dr. Stephens be asked to come in to speak with the Board and talk about HIV/AIDS in the Department.

Reverend Paige reiterated he was asking for a policy to be put in place. Mr. Johnson indicated that if you test someone and they come back positive, you cannot share that with anyone. He agreed it is a complicated issue and will have Dr. Stephens and a representative from the Health Department come in to speak to the Board.

Sheriff Osborne stated he was glad to be back. He noted he was glad to see some people again and referring to the Director, indicated he had always found him to be a man of his word.

Mrs. Alksne wished Mr. Osborne a Happy Birthday and departed the meeting.

Mr. Blank again noted he would like to work toward potentially having fees forgiven. Mr. Johnson said he would do some checking and will set up a meeting with Mr. Blank and the appropriate staff on this issue.

Reverend Paige departed the meeting.

Mr. Blank congratulated the Director and staff on the fact that Judge Turk had just issued his ruling and the Department was already addressing the issue. And he seconded the video visitation rescission and feels the Department did the right thing right off the bat.

Mr. Boshart indicated he would be glad to help out with investigating potentially having fees forgiven. He noted the Clerks would not like this.

Mr. Cabacoy thanked everyone for the privilege of serving and will try to provide something worthwhile to the process. He stated he had served on the DCE Board for eight years, seven as Chairman.

Mr. Washington welcomed the new members and gave thanks to the Director's staff for all they do.

**X. Future Meeting Plans (provided for informational purposes - not discussed)**

**The October 20, 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.

**XI. Adjournment**

By **MOTION** duly made by Mr. Osborne, seconded by Mr. Washington and **APPROVED** by verbally responding in the affirmative (Blank, Boshart, Cabacoy, Osborne, Washington), the meeting was adjourned.

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

*(Signature copy on file)*

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PETER G. DECKER, III, CHAIRMAN

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B. A. WASHINGTON, SR., SECRETARY