

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

| | |
|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Special Meeting | April 20, 2012 |
| Location | 6900 Atmore Drive Richmond, Virginia |
| Presiding..... | Peter G. Decker, III, Chairman |
| Present..... | Cynthia M. Alksne Jonathan T. Blank Kurt A. Boshart Felipe Q. Cabacoy Linda D. Curtis William E. Osborne Reverend Anthony C. Paige B. A. Washington, Sr. |

9:00 a.m., Friday, April 20, 2012
6900 Atmore Drive, Richmond, Virginia 23225

I. Board Chairman

The meeting was called to order. The Board roll was taken. All members were present. Chairman Decker welcomed attendees and asked that everyone identify themselves for the record. He welcomed the Secretary of Public Safety Marla G. Decker and Ms. Banci Tewolde.

II. Introduction of and Comments by Assistant Attorney General Richard Vorhis

Senior Assistant Attorney General Richard Vorhis provided a quick overview of the Board's powers and duties. He explained the difference between Advisory, Policy and Supervisory Boards and noted the Board of Corrections is a Policy Board, having regulatory responsibilities and no Department oversight.

Mr. Vorhis went over §53.1-5 and named several other sections still applicable to include determining how earned sentence credits are earned and how forfeited (good conduct allowance); exchange of medical records; payments to defray costs as well as to ensure the development of programs.

Mr. Vorhis noted Board members are responsible for completing state Conflict of Interest training once every two years and for filing annual financial disclosure statements.

Mr. Osborne asked why state institutions were taken from the Board as he feels the reform commission made a mistake by so doing. Secretary Decker took over comments at this point.

III. Introduction of and Comments by Secretary of Public Safety Marla G. Decker

Secretary Decker responded to Mr. Osborne's statement; that this was part of a larger process of government reform; that the commission was charged with reviewing all Boards and recommended the elimination of many. The members stated their concern that they never knew about the reforms being considered, that they do not believe what was done was right and wonders what good does the Board serve now.

Secretary Decker advised the Board that it was not the only one affected by recommendations of the commission, which was charged with looking at the number of Boards to be eliminated as well as which Boards would have its powers and duties reduced. She stated that the motivation for these changes was to reduce the levels of state government while ensuring government is functioning efficiently and effectively. As a result, the General Assembly decided to change the roles and responsibilities based on a variety of reasons to include reflecting where we are today, years after the abolition of parole. This Board is part of the government's system of checks and balances, with a high degree of authority and an ability to look at what Corrections is doing and to provide input at all levels. With those checks and balances, localities are allowed access to citizens not within the Department but who have the power to effect change of the Department in a public forum.

The Secretary emphasized the Board's role with jails is critical. She noted that at the state level, the Department has a set of policies and guidelines with the Director in charge but at the local level, without the Board, there would be no such guidelines and no outside oversight. She stated the Board's Standards are the policies and guidelines for local and regional jails; that the Board retains that regulatory function and it is vital. If the General Assembly had felt the Board was not needed, it would have elected to abolish the Board but it did not because the Board serves a vital Corrections function at the state level, and the Secretary opined that the Board retains a lot of responsibilities from a citizen Board perspective, being able to provide input and advice on what impacts Corrections.

A template will be created in which Department highlights and priorities will be showcased and presented for the Board to review as relates to its Code responsibilities. In turn, the Board will give the Department a heads up on information it gleans from daily interaction within their communities. This template will provide an outline of what the Board would like to talk about; what the Board thinks is important.

The Secretary suggested that things are not always as they appear and if the Board has concerns about policies of the Department, to bring those to the attention of the Director. The Department is not afraid of the Board having differing opinions and views. She closed that it is important to have discussion and to keep the momentum going; that the Board serves an important function, even under the new Code section. She then thanked the Board for all that it does because it knows the challenges we face better than anyone. She thanked the Board for the opportunity to meet with them.

**IV. Introduction of and Comments by Executive Director Maria J.K. Everett, Esq.,
Virginia Freedom of Information Advisory Council**

Ms. Everett introduced herself and gave her background and then went on to present an overview of Virginia FOIA. She stated Virginia FOIA provides access to government records as well as access to meetings and that FOIA is a balance of the right of access versus the need of government to function. She went on to explain the components of a meeting being notice, open to the public and minutes prepared. She explained what open to the public means. She also stated that if three or more members of the public body are assembled, it is considered a public meeting. If just two members are assembled and it is not prearranged to discuss public business, it is not considered a meeting. Any time there are more than two members present, it is a public meeting and the three requirements must be met.

She explained that closed meetings can only be called for specific reasons and there must be a proper motion going into it which must include the purpose, subject and Code cite. A closed meeting is always within the context of an open meeting, and the closed meeting must keep on the topic as stated in the motion going into the closed meeting. Action taken during the closed meeting must be certified in the open meeting with a vote in the open meeting.

She explained the meaning of Office of the Governor Confidential Working Papers and who is covered by this. She explained that emails can be considered meetings; if two members are emailing each other, it is not considered a public meeting. If you click reply to all for your response and the email goes to more than just the two members, it then becomes a public meeting. She also explained that the Board and its subcommittees can utilize teleconferences and that a quorum of the body must be physically present during the call.

Ms. Everett closed by emphasizing if the rules are followed, you should never have a problem. She left her business card and advised if the Board has any questions, to please give her a call.

**V. Introduction of and Comments by Department Regulatory Coordinator Mr. James
Bruce and Mrs. Janice Dow**

Mrs. Dow presented a PowerPoint list of all Board policies and noted that good conduct allowances are covered by Chapter 20-9 of the Board policies. She explained that any time a Board policy revision is needed, the unit covered by the policy makes the changes and it is provided to the Board for action. All Board policies are available in hard copy.

Ms. Dow then went through the regulatory process and presented a breakdown of the format of a VAC (Virginia Administrative Code) citation or reference. She explained that Board Standards are covered under 6VAC15, and she broke down the components of the numbering system. She reviewed the Administrative Process Act and showed where to find the Board's regulations on the Regulatory Town Hall. She explained about the

Virginia Register of Regulations and described each of the stages to be followed being Notice of Intended Regulatory Action (NOIRA), proposed and final. She explained the three additional regulatory actions which may be considered being fast track, emergency and exempt. She presented a slide for each of the current Board regulations, of which there are 8 and one of which is exempt from the APA process.

Mr. Bruce presented a listing of each of the Board policies with its title and effective date as well as each of the Board regulations with activity and review dates. There are three regulations currently undergoing the APA process, one in the NOIRA stage, one at the proposed stage and one in the final stage. He closed with revisions are underway and the Board will be kept apprised of any changes.

VI. Comments by Chief Deputy Director Debra Gardner

Ms. Gardner remarked she felt the meeting was informative and educational. She will be providing a template for the restructuring of Board meetings and thanked the Board for its tolerance and patience.

VII. Comments by Director Harold Clarke

The Director thanked the Board for its interest and remarked it was a long but good meeting. He hopes the Board is now motivated to move forward and looks forward to working with the Board. He noted that Ms. Gardner is responsible for the staff working for the Board and will be overseeing this function. He stated it is good to have an entity outside of the Department to speak with and with whom to share upcoming events and challenges and asked the Board to please bring back what it hears so issues can be discussed. He suggested that perhaps the public does need clear separation between the Department and the Board and the Board might want to propose changing its name.

VIII. Board Member/Other Comment

Members spoke up and stated that the name should remain as is now that the Board has a clearer understanding of what its duties are. The Board will go through the policies, with the assistance of Mr. Bruce, and will clean them up to reflect its new responsibilities. It will look at the committee structure and make changes where needed and it will provide a vehicle to be responsive to its duties and responsibilities. The Chairman thanked everyone for their time and stated how much the Board appreciated the Secretary taking time to listen. Mr. Cabacoy stated he had gained clarity and one good thing to come out of the discussion was to listen, even if you are hearing what you do not want to hear. Mrs. Curtis indicated she appreciated all of the information and felt the conversation to be enlightening. She now can see the direction of the Board and can become a more effective member. Lt. Boshart stated his appreciation for today's meeting and the value and import of what the Board does.

X. Future Meeting Plans (provided for informational purposes)

The May 16, 2012, 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;
And Board Meeting – 1:00 p.m., Board Room, 6900 Atmore Drive, Richmond, Virginia.

XI. Adjournment

There being nothing further, by **MOTION** duly made, seconded and **APPROVED** by verbally responding in the affirmative (Boshart, Cabacoy, Curtis, Osborne, Paige, Washington), the meeting was adjourned. Mrs. Alksne and Mr. Blank had previously departed the meeting.

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

Signature copy on file

PETER G. DECKER, III, CHAIRMAN

B. A. WASHINGTON, SR., SECRETARY