

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

Regular Meeting	November 18, 2009
Location .....	6900 Atmore Drive Richmond, Virginia
Presiding .....	Sterling C. Proffitt, Chairman
Present .....	Cynthia M. Alksne Jonathan T. Blank Peter G. Decker, III Raymond W. Mitchell Rev. Anthony C. Paige James R. Socas B. A. Washington, Sr.
Absent.....	James H. Burrell

**1:00 p.m., Wednesday, November 18, 2009**  
6900 Atmore Drive, Richmond, Virginia 23225

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

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

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

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

By **MOTION** duly made by Mr. Mitchell and seconded by Mrs. Alksne, the Minutes were **APPROVED** as presented by verbally responding in the affirmative (Alksne, Blank, Decker, Mitchell, 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, and Messrs. Paige and Socas' votes were not considered as they were not present at the October meeting. The Motion carried.

**II. Public/Other Comment (Mr. Proffitt)**

Mrs. Cate Newbanks, Executive Director of FACES of Virginia Families, was in attendance and reported she had met with Mr. Leininger the previous day regarding her FACES Plan of Hope Project in order to gain support from the Department for her grant application. This project will allow her organization to serve families raising the children of inmates at VCCW. Upon receiving the grant, the organization's intent is to then produce a support and services model which will be replicated at other prison sites in Virginia. The FACES Plan of Hope Project abstract is included in the file, made a part of the record.

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It is now anticipated the Department will be writing a letter to support her efforts toward securing grant funds for this project. She is hopeful the Board will also write a letter of support.

There were no questions or comments. The Chairman thanked Ms. Newbanks for her comments. No action by the Board was taken.

### **III. Presentations**

No presentations were scheduled for this meeting. The Chairman asked the Director if he had anything to offer. Mr. Johnson stated that two executions had been carried out over the last two weeks. Mr. Socas then asked the Director if he could comment on the budget reductions and how they have affected the Department. Mr. Johnson reported that the closings of Brunswick and Botetourt have been completed. He noted that through the efforts of Human Resources and field staff and their having held vacant positions open, only 10 people were laid off from Brunswick (out of approximately 300 employees), and only 16 people were laid off from Botetourt out of approximately 150 employees, which is quite remarkable.

Mr. Johnson stated the Commonwealth is anticipating additional budget shortfalls, and the Department is expecting additional cuts as a result. He noted that when you are speaking of cutting millions of dollars from this Agency's budget, the only way to come up with that kind of money is to close facilities.

Mr. Socas enquired as to who makes the case to the General Assembly when budget cuts are being considered. Mr. Johnson responded that the Governor submits his recommendations to the General Assembly, who then goes through the Governor's recommendations. Mr. Johnson indicated the General Assembly understands the Department's situation, and GA Members have indicated to him it is time to look somewhere else for money. The Department will not know one way or the other what cuts to expect until after the first of the year. The Governor will present his Budget to modify the remainder of FY10 and establish a budget for FY11/12 on December 18.

Mr. Socas asked if there was anything the Board could do in support of the Department's efforts; perhaps a letter to the General Assembly as a third party. Mr. Johnson remarked that P&P Chiefs have been encouraged to get to know their legislators; perhaps the same could hold true for the Board. He suggested members could write a letter; talk to your legislators because they need to know what they are talking about when they are considering cuts to the Department. Mr. Socas agreed; that such a letter from the point of view of the Board would be a way to approach the Legislature. Rev. Paige remarked that he agrees; the Board needs to go on record as being in agreement as to its concerns about the cuts the Department has endured and the impact on the Department regarding public safety. In other words, take the position and let the letter reflect the spirit of the Board.

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Mr. Paige then made a *MOTION*, seconded by Mr. Socas, that the Chairman and appropriate members of the Board draft a letter to the General Assembly and public officials reflecting the Board's concerns regarding the impact budget cuts are having on the Department of Corrections and to express concerns about the need for special attention to this matter immediately.

Mr. Blank indicated the Board should see the letter before it goes out. It was agreed that each member would be given the opportunity to read the letter and to relay any concerns they had with it. The signature of each member will be placed on the letter.

Mr. Socas suggested the Board pass the Motion and it could then discuss the details. Mrs. Alksne asked if the letter should include specific or general concerns. Mr. Socas suggested specifics – the statistics on the cuts, per-prisoner expenditures, etc.

The Director suggested the Board might want to add jails to its concerns because when you include jails, they have experienced cuts directly affecting them, and the Board does have some oversight for them. Other suggestions were to include the benefits of more treatment and probation staff; the benefits of alternatives to incarceration because these cost money, too.

Mr. Leininger enquired as to who would be the target of the letter. He indicated the House Retreat Report specifies another 15% cut, which would mean the Department would lose 1,300 more beds. Mr. Socas closed with the comment make the letter real to the people; so that a lay person or a reporter can understand the issues.

There were no other comments. Therefore,

By *MOTION* duly made by Rev. Paige and seconded by Mr. Socas and as *APPROVED* as presented by verbally responding in the affirmative (Alksne, Blank, Decker, Mitchell, Paige, Socas, Washington):

**“The Board of Corrections, acting on the 18<sup>th</sup> day of November, 2009, will write a letter to the General Assembly reflecting the Board’s concerns regarding the impact budget cuts are having on the Department of Corrections and to express concerns about the need for special attention to this matter immediately.”**

Mr. Leininger will write the letter from the Board to the target audience, which letter will include specific details related to budget cuts to the Department as well as the impact Department budget cuts are having on jails.

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

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

Mr. Proffitt gave the Committee report in Mr. Burrell's absence. The meeting was chaired by John Roberts with Board members Mitchell, Paige, Washington and Proffitt in attendance.

Mrs. Lipp updated the Committee on the construction at Grayson, which project is ongoing and on schedule. The facility is not funded to open. The Department is advertising for a Buildings & Grounds Superintendent for the facility. Even though it will not be occupied, that person will ensure that systems are being tested on a regular basis.

Mrs. deSocio's noted not much had changed since the October meeting. She spoke to the budget and per diem reductions to local jails specifically. She reported staffing for new jail facilities is funded.

Mr. Wilson reported the jail population as of September 30 to be 28,165, and the out-of-compliance figure to be 3,535. He indicated the new construction at the Loudoun County Adult Detention Center is nearing completion and is expected to open in February of 2010. And he announced that the Henrico County Regional Jail East received a rare 100% compliance rating on its ACA Certification Audit.

Mr. Bass reported that six state facilities have been closed, two this year, which has hampered the Department's out-of-compliance efforts. Six regional jails are being utilized to house state-responsible inmates, to include housing the last 120 inmates from Botetourt. Mr. Bass indicated there are vacant beds at both the Eastern Shore Regional Jail and the Botetourt regional jail.

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

#### **IV. Administration Committee (Mr. Decker)**

Mr. Decker reported the meeting was very informative. Mr. Don Guillory, CEO of Virginia Correctional Enterprises, was present to brief the Committee on the products and services provided by VCE. It was noted this is a \$49-million-a-year industry employing 1,500 inmates. Inmates learn job skills with an aim toward reducing recidivism.

##### **1) Overtime Report for 1<sup>st</sup> Quarter FY 10 Ending September 30, 2009**

The overtime report was reviewed. The Department is doing an excellent job managing what it does with what it has. As indicated by the quarterly numbers, there has been a 43 percent reduction in overtime or \$822,407 less as compared to the same period last year. The Department is to be commended for going above and beyond and being fiscally responsible.

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Mr. Decker remarked the vacancy rates were good considering the closing of the two facilities.

2) **Board Motion to Declare as Surplus, Property Known as Tazewell Correctional Unit #31**

Director Johnson was instructed by Secretary of Public Safety Marshall to proceed with the process of having the Tazewell Correctional Unit #31 property declared as surplus through the Virginia Department of General Services. The Secretary had received a letter from the Chief of the Bluefield Police Department, on behalf of the Executive Board of the Southwest Virginia Criminal Justice Training Academy, in support of Tazewell County acquiring the property to use as the new training academy, if financially feasible. The Southwest Virginia Criminal Justice Training Academy is currently renting and paying for the upkeep of a building in Bristol, Virginia, that they have outgrown. The Director has determined the property to be surplus and is no longer needed.

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

**“Pursuant to Sections 53.18 and 2.2-1150 of the Code of Virginia and as directed by the Secretary of Public Safety and requested by the Department of Corrections, the Board of Corrections approves the transfer of the Tazewell Correctional Unit #31 to the Virginia Department of General Services via surplus property declaration. The property consists of approximately 53.25 acres of land and buildings on the north side of Highway No. 61 in the Clear Fork Magisterial District of Tazewell County, Virginia.**

**The Board hereby authorizes the Director of the Department of Corrections to executive all documents in furtherance of the transfer of this property.”**

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

There was no other discussion and no further Board action is required.

Mr. Proffitt thanked Mr. Decker for his report.

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

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

1) Appeal by Fairfax County Adult Detention Center to Finding of Non-Compliance with Standard 6VAC15-40-580 from Unannounced Inspection

This item was deferred from October. With the Sheriff in attendance, the Committee inquired about the facility's rationale behind serving the nutritious loaf as reported because Standard 6VAC15-40-580 states: "*Food Services Program Not a Disciplinary Measure. Written policy, procedure and practice shall ensure food is not used as a disciplinary measure.*"

The facility has been providing inmates on disciplinary segregation an alternative meal, consisting of a nutritious food loaf, in place of the breakfast, lunch and dinner meal that is to be served to the remainder of the inmate population, in violation of the Standard. The Sheriff stated that utilizing the nutritional loaf for inmates in disciplinary segregation has proved helpful in the past when considering safety issues as the nutritional loaf can be consumed without knives or forks.

The recommendation of the facility's food service contractor, who reviews the dietary schedule for the Fairfax County Adult Detention Center, is for the nutritional loaf to not be served for more than 72 hours. The jail is serving it for 144 hours. Mr. Proffitt specifically asked the Sheriff if the nutritional loaf was being used for punitive reasons, and the Sheriff responded in the affirmative. In addition, the facility is accredited by the ACA and has been found out of compliance with the related ACA Standard regarding Food Services Program Not a Disciplinary Measure for the past two audit periods (2004 and 2007).

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

**"The Board of Corrections DENIES THE APPEAL by the Fairfax County Adult Detention Center on Standard 6VAC15-40-580. The Sheriff will modify the policy; the nutritional loaf cannot be used as a disciplinary tool."**

During the call for the question, Mr. Socas reiterated that the Board was not granting the waiver. That understanding was affirmed as correct. Mrs. Alksne enquired as to who follows up with corrective Plans of Action. Ms. Lawrence responded that the Compliance & Accreditation Unit follows up with all Plans of Action to ensure compliance.

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

2) **Board Motion to Approve State Jail Funding for Construction Reimbursement for RSW (Rappahannock, Shenandoah and Warren) Regional Jail Authority**

At its October 21, 2009, meeting, the Board approved the community-based corrections plan (CBCP) for the RSW Regional Jail. This funding request is being submitted in light of the project's exemption from the current funding moratorium under Chapter 781, Item #388.A.4.b of the 2009 Acts of Assembly.

The Planning Study proposes the construction of a new, 375-bed facility for the RSW Regional Jail to house the inmate population of the Counties of Rappahannock, Shenandoah and Warren. The facility is proposed as a single-story, two-level facility with three housing units having a total of 17 pods and core support space to hold all custody levels. The project includes space for administrative, visitation, intake/release processing, special purpose, medical, kitchen, inmate programs and storage support areas and core sizing to accommodate future needs. All three jails will be closed and the positions incorporated into the new regional jail.

Therefore, by **MOTION** duly made by Mr. Washington, seconded by Mr. Mitchell:

**“The Board of Corrections approves the request from the RSW Regional Jail Authority for State jail funding for construction reimbursement for a new, 375-bed RSW Regional Jail. This approval recognizes a total eligible cost of \$65,681,699, of which up to 50% or \$32,840,850 would be the State reimbursement. Such reimbursement is subject to the availability of funds and compliance with Board Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (1994) and Sections 53.1-80 through 82 of the Code of Virginia.”**

During the call for questions or comments, there was much discussion regarding the cost of the land (38 acres equaling \$3 million), which was countered with an explanation of how long it took to find and agree to this particular site (searching since 2007, two separate parcels finally being agreed upon in an industrial park with the cost commensurate to property in that area of the county); reiterating this project has gone through all of the local processes required in order to gain the necessary approvals (planning, zoning and public hearings); and then the counter of how the Board, in good conscience, could expend millions of dollars when the Department and the Commonwealth are facing such huge shortfalls.

The questions and comments were made recognizing the needs of the localities involved but also recognizing there are many places where \$32 million might be better

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spent and acknowledging that the Board should be able to demonstrate its willingness to be a good steward of the State's resources by taking a close look at this project before approving it. While it is recognized that the General Assembly left the exemption language in the Appropriation Act so this project could advance through the process, Mr. Socas noted that even though the exemption was initially given by the General Assembly in 2007 (Item #384.A.4.g), the budget climate was completely different then from what it is now and consideration should be given to not expending this amount of money at this time. Mr. Leininger cautioned the Board that with the changing political climate, not discussing its [the Board's] concerns with the folks at the other end of the line and deferring this project to some point in the future could be problematic.

The call for the question was then made.

By a show of hands, Messrs. Paige, Mitchell, Decker and Washington indicated their support of the Motion. Mrs. Alksne and Mr. Socas raised their hand in non-support of the Motion. Mr. Blank abstained from the vote. The Chairman raised his hand in support of the Motion. There was one absence. The Motion carried.

3) **Board Motion to State Jail Funding for Construction Reimbursement for the Rockbridge Regional Jail**

At its May, 2009, meeting, the Board approved the community-based corrections plan (CBCP) for the Rockbridge Regional Jail. This funding request is being submitted in light of the project's exemption from the current funding moratorium under Chapter 781, Item #388.A.4.c of the 2009 Acts of Assembly.

The Planning Study proposes the construction of a 114-bed expansion and renovation of the Rockbridge Regional Jail, which houses the inmate populations of the Cities of Lexington, Buena Vista, the County of Rockbridge and the Towns of Goshen and Glasgow. The facility is proposed as a three-story, multi-level facility containing a total of 14 housing pods and core support space to hold all custody levels. The project includes expansion for and renovation of space for administrative, visitation, intake/release processing, special purpose, medical, kitchen, inmate programs and storage support areas to accommodate the existing and expanded population of 184 inmates and sizing to accommodate future needs.

Therefore, by **MOTION** duly made by Mr. Washington, seconded by Mr. Mitchell:

**“The Board of Corrections approves the request from the Rockbridge Regional Jail Board for State jail funding for construction reimbursement for a 114-bed expansion and renovation of the Rockbridge Regional Jail. This approval recognizes a total eligible cost of \$24,071,125, of which up to 50% or \$12,035,562 would be the State reimbursement. Such reimbursement is subject to the**

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**availability of funds and compliance with Board *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities (1994)* and Sections 53.1-80 through 82 of the Code of Virginia.**

During the call for questions or comments, Mr. Socas asked if consideration had been given to transferring affected inmates into closed prisons. Mr. Johnson responded there had not been such consideration given in the past; discussions regarding creating misdemeanor facilities have been held but the idea has not caught on. Mr. Johnson inquired how many additional staff there would be as a result of this expansion/renovation. There will be 65 security and 15 non-security positions with a staffing ratio of 1:3. This jail currently operates at a staffing ratio of 2:1 because the original building layout was extremely staff intensive.

Mr. Socas noted this request puts the Board in another awkward position, and he is uncomfortable approving the request given the challenges to the Commonwealth at this time. It was reiterated that this project, too, is exempted from the current funding moratorium; Rev. Paige indicated a vote on this project, because of the previous project, is a paradox; if it is already exempted, it is basically already approved.

Mr. Gill remarked that exemptions to the moratorium are reviewed and renewed on an annual basis by the General Assembly and that a facility must be 50% over capacity in order to be considered for an exemption.

Mr. Socas enquired how many jail construction projects had been approved by the Board. Ms. Ballard responded she estimates between 30 and 40 since 1995. The Director noted more had been spent on jail construction than had been spent on prison construction. The Chairman reminded everyone that it may be big money to build facilities such as these, but that money is just a drop in the bucket compared to what it costs to operate them.

The call for the question was made.

By a show of hands, Messrs. Paige, Mitchell, Decker and Washington indicated their support of the Motion. Mrs. Alksne and Mr. Socas raised their hand in non-support of the Motion. Mr. Blank abstained from the vote. The Chairman raised his hand in support of the Motion. There was one absence. The Motion carried.

4) **Board Motion to Approve Suspension of 2009 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 in the jail's Triennial Certification Audit. Since the Board's last meeting, three jails and three lockups have achieved 100% compliance with Board Standards. They are: Henrico County Regional Jail (East), Blue Ridge

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Regional Jail (Halifax), Gloucester County Jail, Vinton Town Lockup, Madison County Lockup and the Altavista Town Lockup.

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

**“The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2009 Annual Inspection for: Henrico County Regional Jail (East), Blue Ridge Regional Jail (Halifax), Gloucester County Jail, Vinton Town Lockup, Madison County Lockup and the Altavista Town Lockup.”**

At this time, a five-minute recess was taken. The meeting was reconvened.

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

5) **Compliance and Accreditation**  
**Certifications Section**

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

**Unconditional Certification to include waivers for Standards 4-4133, 4-4137, 4-4141, 4-4154 and 4-4270 for Baskerville Correctional Center;**

**Unconditional Certification as a result of 100% compliance for St. Brides Correctional Center;**

**Unconditional Certification as a result of 100% compliance with ACA Re-Accreditation for Henrico County Regional Jail (East);**

**Unconditional Certification for Henrico County Regional Jail (West) with ACA Re-Accreditation;**

**Unconditional Certification as a result of 100% compliance for Madison and Altavista Town Lockups;**

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

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**And Unconditional Certification for Probation & Parole District 29 (Fairfax) and Probation & Parole District 3 (Portsmouth).**

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

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

6) **Policy & Regulations**

There was nothing to report this month for Policy & Regulations.

The Chairman thanked Mr. Washington for his report.

**VI. Presentations to Board**

There were no presentations scheduled for this month.

**VII. Closed Session**

No Closed Session was held.

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

The Director indicated he had nothing further. He wished the Board members a nice Thanksgiving and Christmas.

**IX. Board Member/Other Comment**

The members were polled. Reverend Paige indicated he still had not received a copy of the Department's current Operating Budget. Ms. Scott will see that this request is addressed.

Mr. Mitchell had nothing other than to wish everyone a safe and great holiday. Mrs. Alksne and Messrs. Decker, Blank and Socas offered general comments. Rev. Paige suggested the Board consider holding a Retreat in order to hold some focused discussions and to do some strategic planning in support of Mr. Socas' reminder about the Board's duties. Mr. Proffitt agreed a Retreat could be done. He offered to forego mileage reimbursement. Mrs. Alksne offered to organize the Retreat. Mr. Socas suggested it occur in January or February. Mr. Mitchell suggested waiting until the changes are made to the Board next year. Mr. Socas suggested that the Board go forward now while members with

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the longest history are still on the Board in order to preserve past memories. Mr. Katz reminded the Board that any such meeting will be considered a Public Meeting.

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

**X. Future Meeting Plans**

**The Chairman announced the March 17, 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**

There being nothing further, by **MOTION** duly made by Mr. Blank, seconded by Mrs. Alksne and unanimously **APPROVED** (Alksne, Blank, Decker, Mitchell, Paige, Socas, Washington), the meeting was adjourned. There was no discussion. The Chairman voted his approval of the move to adjourn. There was one absence. The Motion carried.

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STERLING C. PROFFITT, CHAIRMAN

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RAYMOND W. MITCHELL, SECRETARY