

COMMONWEALTH OF VIRGINIA
BOARD OF CORRECTIONS

Regular Meeting	July 16, 2008
Location	6900 Atmore Drive Richmond, Virginia
Presiding	Sterling C. Proffitt, Chairman
Present	James H. Burrell Jacqueline F. Fraser Gregory M. Kallen Raymond W. Mitchell W. Randy Wright
Absent	Peter G. Decker, III W. Alvin Hudson, Jr. James R. Socas

1:00 p.m., Wednesday, July 16, 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 indicated during the verbal roll call and as noted above.

I. Board Chairman (Mr. Proffitt)

1) Motion to Approve May Board Minutes

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

Mr. Mitchell made the Motion and Mr. Burrell seconded. During the call for question, comment or discussion on the Motion, Ms. Fraser indicated she had two revisions to be made to the draft Board Minutes. On Page 7, under the Discussion Regarding Patrick County Jail, that the second to the last sentence in the second paragraph be revised to read: **However, letters from Martinsville and Henry County stated that they were not able to support a regional jail due to current economic conditions in those localities.**

And that the third paragraph, first sentence be revised to read: **Patrick County realizes it cannot do a regional jail and is modifying materials previously submitted to the Department and will proceed with a plan for a local jail.**

During the call for voting on the Motion, there were no questions, there was no further discussion and there were no opposing votes. Three members (Burrell, Fraser, Mitchell) voted in *FAVOR* of the Motion to approve the *REVISED* May Board Minutes. Two members (Kallen and Wright) *ABSTAINED* from the vote as they were not present at the May meeting. The Chairman then voted his approval of the Motion. However, as three

members were absent and two members abstained from the vote, there was not a quorum (there must be at least five) of Board members present. Therefore, the revised May Board Minutes will be presented for approval in September.

II. Public/Other Comment

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

III. Presentation to the Board (Mr. Jabe)

There were no presentations scheduled for the Board, and Mr. Jabe had nothing for the Board at this time.

IV. Liaison Committee (Mr. Burrell)

Mr. Burrell reported that Ms. Robyn DeSocio with the State Compensation Board favors the 9:30 a.m. start for the Committee. She reported that the Comp Board was looking at staffing, and information regarding same will be provided to localities by August 1, 2008. Though Ms. Lipp was absent, it was reported that the Grayson County project is moving along and is still estimated for completion in the spring of 2010. Mr. Wilson reported the out-of-compliance number as 1,552. Mr. Bass reported that approximately 800 beds are available at St. Brides but there is no funding to operate the facility. Budget cuts could necessitate the closing of some facilities. It was indicated there are 344 out-of-state inmates currently housed with the Department: 29 from the Virgin Islands, 293 from Wyoming, 20 from Maryland and 2 from Hawaii. There were no questions, comments or discussion of Mr. Burrell's report. No Board action on the report is required.

V. Administration Committee (Mr. Wright)

There were no items for review this month.

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

The Committee met on July 16, 2008, and discussed several items.

1) **Board Motion to Approve Request by Blue Ridge Regional Jail for Modification of Exemption to Value Engineering Requirement for the In-fill Project at Halifax County Jail**

Blue Ridge Regional Jail Authority is constructing a 420-bed addition and renovation to its group of facilities. Associated with this project is a request from the Authority to approve a modification to the Board's requirement that Value Engineering be completed on any state-funded project.

The Authority will be constructing a new facility to replace the Appomattox and Amherst Jails, as well as constructing a 40-bed in-fill at Halifax Jail. The in-fill for this project is to finish off an existing shell space and to add a laundry. This in-fill is less than 6% of the square footage for the total project and 4% of the cost. Separate Value Engineering on this minor project would cost more than it would to do the whole project. Value Engineering will be completed on the whole project.

The Committee supports the request and therefore recommends by *MOTION* duly made by Ms. Fraser and seconded by Mr. Burrell, **“To facilitate the economy and schedule of construction for the Blue Ridge Regional Jail expansion, the Board of Corrections grants a modification of Policy to exempt the Halifax in-fill portion of the Blue Ridge Regional Jail expansion project from the Value Engineering Study requirement. This modification approval shall not be construed as a future modification or variance of Board Policy requiring Value Engineering for this or any other facility.”**

The Motion was *APPROVED* by verbally responding in the affirmative (Burrell, Fraser, Kallen, Mitchell, 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.

2) **Request by Rappahannock Regional Jail for Modification to Standard 5.40.B.2 of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities**

Rappahannock Regional Jail is constructing a 432-bed addition to their facility, which will bring their total population to 1,024. Associated with this project is a request from the Rappahannock Regional Jail Authority to allow for a modification to Standard 5.40.B.2, which relates to opening protection in perimeter security walls. This specific request relates to allowing bars to be eliminated from the security perimeter wall between the Jail and the Magistrate’s Office. The Committee is not recommending this request be approved. No Motion was made at this time.

3) **Board Motion to Approve Community-Based Corrections Plan for Patrick County Jail**

The Patrick County Board of Supervisors is seeking approval of their community-based corrections plan to justify construction of a new, 120-bed facility. The current jail is in poor physical condition. The 10-year population forecast indicates a need for approximately 120 beds by the year 2022. During the facility’s December, 2007, unannounced inspection, it was found that the jail failed to meet 11 Life, Health, Safety Standards. Action on 3 of those deficiencies is still pending. Therefore,

“The Board of Corrections approves the request for approval of the Community-Based Corrections Plan for Patrick County in support of its need to replace the Patrick County Jail.”

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

4) **Board Motion on Request by Rappahannock Regional Jail for Modification to Standard 5.40.B.2 of the Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities**

Based on guidance given by the representative of the Attorney General’s Office suggesting the Board place official action in the record on the request by Rappahannock Regional Jail for modification to Standards 5.40.B.2., Ms. Fraser proffered the following:

By *MOTION*, duly made by Ms. Fraser, seconded by Mr. Mitchell and verbally responded to in the affirmative (Burrell, Fraser, Kallen, Mitchell, Wright), the *REQUEST* for modification to Standard 5.40.B.2 of the *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities* was *DENIED*. There were no questions, comments or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent. The Motion carried.

5) **Board Motion to Approve Community-Based Corrections Plan for Brunswick-Dinwiddie-Mecklenburg Regional Jail Authority**

The Counties of Brunswick, Dinwiddie and Mecklenburg and the Brunswick-Dinwiddie-Mecklenburg Regional Jail Authority are seeking approval of their Community-Based Corrections Plan to justify construction of two new facilities to replace their current three facilities for a total of 798 beds, 672 at Brunswick and 126 at Mecklenburg. Therefore,

“The Board of Corrections approves the request for approval of the Community-Based Corrections Plan for the Counties of Brunswick, Dinwiddie and Mecklenburg and the Brunswick-Dinwiddie-Mecklenburg Regional Jail Authority in support of their need to construct a two-facility regional jail.”

The *MOTION*, duly made by Ms. Fraser and seconded by Mr. Burrell, was *APPROVED* as presented by verbally responding in the affirmative (Burrell, Fraser, Kallen, Mitchell, Wright). There were no questions, comments or discussion. There

were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent. The Motion carried.

6) **Board Motion to Approve Suspension of 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 in the jail's Triennial Certification Audit. Since the last approval, three jails have achieved 100% compliance with Board Standards. They are: Appomattox County Jail, Campbell County Adult Detention Center (Blue Ridge Regional Jail) and the Loudoun County Jail.

The Committee agrees with the assessment and recommends by ***MOTION*** duly made by Ms. Fraser and seconded by Mr. Wright, **“The Board of Corrections, in recognition of the outstanding achievement of 100% compliance with Standards, approves suspension of the 2008 Annual Inspection for the Appomattox County Jail, Campbell County Adult Detention Center (Blue Ridge Regional Jail) and the Loudoun County Jail.”**

The Motion was ***APPROVED*** by verbally responding in the affirmative (Burrell, Fraser, Kallen, Mitchell, 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.

7) **Compliance and Accreditation
Certifications Section**

Ms. Fraser presented the following certification recommendations for consideration on behalf of the Committee:

Unconditional Certification for Cold Springs Correctional Field Unit and Work Center (100% compliance);

And Unconditional Certification with ACA Re-Accreditation for Nottoway Correctional Center, Deerfield Correctional Center, Greenville Correctional Center and Botetourt Correctional Center;

And Probationary Certification for Dinwiddie Correctional Field Unit #27 pending completion of POAs on five deficiencies cited during their compliance audit.

And Unconditional Certification as a result of 100% compliance for Appomattox County Jail, Loudoun County Jail and Campbell County Adult Detention Center (Blue Ridge Regional Jail);

And Unconditional Certification for Page County Jail, Rappahannock County Jail, Warren County Jail to include male and female juveniles in accordance with 16.1-249.G of the Code of Virginia; and Eastern Shore Regional Jail;

And Unconditional Certification as a result of 100% compliance for Probation & Parole Districts 13 (Lynchburg), 34 (Williamsburg), 7 (Petersburg), and 42 (Franklin);

And Unconditional Certification for Probation & Parole Districts 22 (Martinsville), 18 (Norton) and 39 (Harrisonburg);

And Unconditional Certification as a result of 100% compliance for Lebanon Community Corrections Center;

And Unconditional Certification for Rubicon, Inc.

By *MOTION* duly made by Ms. Fraser and seconded by Mr. Mitchell, the Board *APPROVED* the above recommendations by verbally responding in the affirmative (Burrell, Fraser, Kallen, Mitchell, 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.

8) **Waiver Request for Friends of Guest House**

Friends of Guest House, Inc., is a community corrections facility located in Alexandria. No accommodations are available for the disabled. Due to this fact, the facility was found out of compliance during their certification audit. Therefore, the facility's executive director is requesting a permanent waiver to Standard 6VAC15-70-70U, a Life, Health, Safety Standard which requires that accommodations be available for the disabled. The facility's executive director noted they do not accept clients who are physically disabled because they cannot accommodate them. There are only 10 beds in the house and all but one bedroom is on the second floor. There are no elevators and the doorways cannot accommodate a wheelchair. According to the facility executive director, the house was built before ADA standards and it would be cost prohibitive for them to undertake widening the doors, hallways, bathrooms and bedrooms or to install a ramp or a lift.

The Committee is recommending to the Board that guidance be sought from the Attorney General's Office as how best to handle this permanent waiver request and suggests that by granting such a waiver, knowing the facility cannot handle disabled clients, would put the Board in a precarious legal position should a lawsuit ever be filed as a result of the facility's non-compliance with ADA.

After discussion with Mr. Mark Davis, it was agreed to table discussion on this matter until the September meeting. In the meantime, the Chairman will submit to the Attorney General's Office a detailed letter requesting guidance on the permanent waiver request by Friends of Guest House as concerns the Americans with Disabilities Act. Therefore,

By *MOTION* duly made by Ms. Fraser and seconded by Mr. Mitchell, the Board *APPROVED* that a letter be written to the Attorney General requesting guidance on the permanent waiver request by Friends of Guest House, Inc., which action was

approved by verbally responding in the affirmative (Burrell, Fraser, Kallen, Mitchell, Wright). There were no further questions, comments or discussion. There were no opposing votes. The Chairman voted his approval of the Motion. Three members were absent. The Motion carried. This request will be reviewed in September.

9) **Policy & Regulations**

a) **Board Motion to Initiate the Regulatory Process to Review and Revise as Necessary 6VAC15-28 of the Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility**

These regulations govern the form and review process for proposed agreements between the Director of the Department of Corrections and a public or private entity to operate a work program in a state correctional facility. These regulations have been in their current form since 1995. Since that time, there have been several changes to the Code of Virginia related to Work Programs and Agreements with Other Entities. Therefore,

“The Board moves to initiate the regulatory process to review and revise as necessary 6VAC15-28, the *Regulations for Public/Private Joint Venture Work Programs Operated in a State Correctional Facility*, by submitting a Notice of Intended Regulatory Action in accordance with the Virginia Administrative Process Act.”

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

b) **Board Motion to Initiate the Regulatory Process to Review and Revise as Necessary 6VAC15-40, the Minimum Standards for Jails and Lockups, by submitting a Notice of Intended Regulatory Action in accordance with the Virginia Administrative Process Act**

The current Standards were adopted effective May 15, 2002. Due to several changes in the State’s jail system, including establishment of new regional jails, closure of some jails and new case law, it is recommended that the Board initiate the review and revision process, to include the establishment of a committee to review the Standards. Therefore,

“The Board moves to initiate the regulatory process to review and revise as necessary 6VAC15-40, the *Minimum Standards for Jails and Lockups*, by submitting a Notice of Intended Regulatory Action in accordance with the Virginia Administrative Process Act.”

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

c) **Board Motion to Amend 6VAC15-31-320 of the Standards for State Correctional Facilities**

The Department of Corrections is requesting amendment to 6VAC15-31-320 (1.c. – Mail, Telephone and Visiting) of the *Standards for State Correctional Facilities*. The current standards require Department facilities to hold incoming and outgoing letters to inmates no more than 24 hours, excluding weekends and holidays. The Department is proposing to increase this timeframe to 48 hours in order to bring this Standard in line with ACA Standards. 6VAC15-31 is exempt from the Administrative Process Act based on Code of Virginia §2.2-4002 b.9-10.

During the call for question, Mr. Wright asked why this change was being considered and put forth the scenario of what would happen if a family member was on their death bed and in trying to get in touch with the inmate, the family wrote to the inmate but the inmate did not get the message until it was too late. Mr. Jabe responded that in cases of a death in the family, ordinarily the facility is notified by phone and arrangements are made. He acknowledged that under the current system, if this information were to be communicated by mail instead of a phone call, the same scenario would hold true; that unless the envelope was opened, the facility would not know a death had occurred until after the fact. Mr. Kallen remarked that if the current method was not causing a problem, why change the practice. After several other general comments, the call for the question was made. Therefore,

“The Board moves to amend 6VAC15-31-320 to increase the timeframe to hold incoming and outgoing letters to incarcerated inmates from 24 hours to 48 hours, excluding weekends and holidays. This amendment shall go into effect in accordance with timeframes as set forth in the Virginia Register Act.”

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

d) **Board Motion to Approve Final Draft of 6VAC15-80 of the *Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities to include new Section 6VAC-15-80-211 (value management analysis) for publication in the Virginia Register of Regulations on August 18, 2008***

The Governor's review of the proposed action was completed on July 3, 2008. He approved the advancement of this regulation to the final stage for the purpose of soliciting public comment. If no public comments are received, the new Section goes into effect September 18, 2008. Therefore,

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

VII. Closed Session

No Closed Session was held.

VIII. Other Business

There was no other business. Mr. Jabe mentioned that on June 27, 2008, an inmate from the Nottoway Work Center, who had been assigned to work at the Crewe Fire House, took it upon himself to walk away from that facility. He noted the inmate was captured without incident later that same day.

IX. Board Member/Other Comment

The members were polled. Ms. Fraser, Mr. Mitchell, Mr. Wright, Mr. Burrell and Mr. Kallen each indicated they had nothing. Mr. Proffitt indicated the Board By-Laws call for Officer Elections in September of each year. He asked that Mr. Kallen, Ms. Fraser and Mr. Wright sit on the Nominating Committee, with Board members Socas and Decker to sit as alternates, with a report to be presented in September.

Mr. Proffitt went on to recognize that July 13 through 19, 2008, is Probation & Parole and Community Supervision Week in Virginia. He recognized all P&P and community staff for the job they do each and every day.

The Chairman indicated he has asked Ms. A. Brooks Ballard to lead the process to review and revise the *Standards for Planning, Design and Construction of Local Correctional Facilities*. They were last visited for rewrite in 1994, and the Chairman and the Director feel a review is long overdue. At the September meeting, a Motion will be presented to

formally initiate the regulatory process as required by the Administrative Process Act. The review committee will be comprised of those with a vested interest in this process.

X. Future Meeting Plans

The September 17, 2008, meetings are scheduled as follows:

Liaison Committee – 9:30 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.

It was noted that Mr. Barry Green and Ms. Dawn Smith were in attendance from the Office of the Secretary of Public Safety.

XI. Adjournment

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

(Signature copy on file)

STERLING C. PROFFITT, CHAIRMAN

RAYMOND W. MITCHELL, SECRETARY