

Texas Board of Criminal Justice
167th Meeting



Minutes

June 21, 2013
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

**Crowne Plaza Austin – Salons A-D
6121 North IH-35
Austin, Texas 78752**

**June 21, 2013
12:00 – 1:00 PM**

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items (*pages 1-8*)

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 166th TBCJ Meeting Minutes
5. Excused Absences

C. Election of Officers

D. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

E. Report from the Chairman, TBCJ

F. Internal Audit Status Report for Fiscal Years 2012 – 2013

G. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million (*pages 9-18*)

H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 159.1 – Substance Abuse Felony Punishment Facilities Eligibility Criteria (*pages 19-21*)

- I. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines (*pages 22-27*)
- J. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction for a Renewal of a Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas (*pages 28-29*)
- K. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Projects (*pages 30-39*)
 - 1. Request to Replace Fire Alarm System at the Beto Unit in Anderson County, Palestine, Texas
 - 2. Request to Replace Fire Alarm System at the Hodge Unit in Cherokee County, Rusk, Texas
 - 3. Request to Replace Locking Systems at the Jester IV Unit in Fort Bend County, Richmond, Texas
 - 4. Request Kitchen Renovations at the Luther Unit in Grimes County, Navasota, Texas
 - 5. Request to Replace Roofs at the Telford Unit in Bowie County, New Boston, Texas

Recess TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 167

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, June 21, 2013, at 12:09 p.m. at the Crowne Plaza Austin, Austin, Texas, and then recessed at 1:26 p.m. The TBCJ reconvened at 2:13 pm, immediately went into executive session, and then adjourned the 167th meeting at 2:47 pm.

BOARD MEMBERS PRESENT: Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Terrell McCombs
Carmen Villanueva-Hiles
Tom Wingate

BOARD MEMBERS ABSENT: Judge Larry Gist
Janice Harris Lord

TDCJ STAFF PRESENT: Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin Sherry Koenig
Rudolph Brothers Dr. Lannette Linthicum
Matt Demny Jerry McGinty
C.F. Hazlewood Susan McHenry
Scott Hornung Ron Steffa
Sharon Felfe Howell William Stephens
John Hurt Bruce Toney
Frank Inmon Carey Welebob
Stuart Jenkins April Zamora

OTHERS PRESENT: Jared Staples, Office of the Governor; the Honorable Judge Dale Spurgin, Jones County; John Newton, Legislative Budget Board (LBB); Lesley French, House Corrections Committee; Veronica Casanova, Windham School District; and members of the media.

Convene Texas Board of Criminal Justice

Chairman Oliver Bell convened the 167th meeting of the TBCJ on Friday, June 21, 2013, at 12:09 p.m. in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. Noting a quorum was present, Chairman Bell declared the meeting open and stated the board would be conducting business as posted in the Texas Register.

Chairman Bell acknowledged guests in the audience: the Honorable Judge Dale Spurgin, from Jones County; Lesley French, from the House Corrections Committee; John Newton from the LBB; and Jared Staples, from the Governor's Office.

Chairman Bell stated that the TBCJ is committed to providing the opportunity for public comment and public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." As no registration cards were received, no public presentations were heard at this meeting.

Recognitions

Chairman Bell welcomed the newest board member, Thomas Wingate. He highlighted the experience and expertise Mr. Wingate brings to the board. Mr. Wingate thanked the chairman, the board, and the staff for their warm welcome.

Stressing the importance of promoting and establishing mental health programming for offenders to ensure they receive proper treatment and housing, Chairman Bell yielding the floor to April Zamora, Reentry and Integration Division Director, for the presentation of the annual *Promotion of Positive (POP) Mental Health Initiatives* Award. Ms. Zamora introduced this year's recipient, Brandon Wood, Executive Director of the Texas Commission on Jail Standards. Mr. Wood was selected for this award because of his leadership and dedication to the implementation of systems targeted to address mental health issues. Mr. Wood expressed his gratitude, recognizing his research specialist, Diana Spiller, and thanking Ms. Zamora and B.J. Wagner, Deputy Director for the Reentry and Integration Division, for their assistance.

Chairman Bell recognized Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), as the 2013 recipient of the *TPEA Administrator of the Year* Award. Noting this is the third time Mr. Livingston has been chosen for the award, Chairman Bell acknowledged Mr. Livingston's focus on leadership development, to ensure talent is in the ranks to grow and lead in the future.

Mr. Livingston recognized Rick Thaler upon his retirement from TDCJ, with over 33 years. Describing his movement through many positions, he commented on Mr. Thaler's strong leadership, work ethic, team building, and shaping of future leaders. Chairman Bell added that Mr. Thaler has consistently set an example of good leadership and support to the board. Mr. Thaler thanked Chairman Bell and Mr. Livingston for the kind words and support over the years. Chairman Bell presented him with a framed Resolution of Commendation.

Mr. Livingston recognized William Stephens as the new director of the Correctional Institutions Division (CID). Mr. Stephens thanked Mr. Livingston for the honor to serve as CID director. He noted the division has a fantastic leadership team and thanked Mr. Thaler for the leadership he provided during his tenure in the position.

Mr. Stephens recognized three new CID regional directors: Richard Alford, Region I, charged with supervision of 13 facilities in the Huntsville area; Cody Ginsel, Region IV, responsible for 16 units in south and west Texas; and Eric Guerrero, Region VI, responsible for 18 facilities, primarily in central Texas. Chairman Bell congratulated all three gentlemen, noting the board will be visiting all the facilities in the coming months and they look forward to meeting and visiting the unit staff.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30 and 35 plus years of service with the state of Texas during the months of April and May 2013. On behalf of the board and the director, he thanked them for their unwavering loyalty and dedication to the citizens of Texas. The names of the employees were submitted for inclusion in the official minutes of the board meeting.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 166th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell presented the consent items and asked if there were any amendments, objections, or abstentions. Eric Gambrell stated that as his firm represents Wal-Mart and San Antonio Food Bank on a pro bono basis and there are personal property donations from both entities before the board, he would abstain from taking action on the consent items. Chairman Bell asked for any further amendments, objections, or abstentions. Seeing none, the consent items stand approved as presented. Chairman Bell requested Mr. Gambrell's abstention be noted for the record.

Election of Officers

Chairman Bell, citing Board Rule 151.3, "Texas Board of Criminal Justice Operating Procedures," announced the board must elect a vice chairman and secretary each odd numbered year. Since the last election of officers was June 2011, he asked if there was a motion on the election of officers.

Carmen Villanueva-Hiles moved that the board approve the nomination of Tom Mechler as vice-chairman and that the board approve the nomination of Leo Vasquez as secretary of the Texas Board of Criminal Justice.

Mr. Gambrell seconded the motion which prevailed unanimously when called to a vote.

Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)-Summary of the 83rd Legislative Session

Mr. Livingston identified the Sunset Bill as the single most important bill to the TDCJ during this legislative session. The Sunset Commission acknowledged and recognized the positive direction of the TDCJ, including its continued expansion of reentry through a variety of mechanisms. With respect to health care, the Sunset Bill expanded the membership of the Correctional Managed Health Care Committee (CMHCC) to include additional medical schools and mental health providers, and revised the role and responsibilities of TDCJ and the CMHCC.

Another significant piece of legislation addressed employee benefits. The legislature considered ways to stabilize the fiscal elements within the state pension plans. While keeping retirement benefits and eligibility criteria for current state employees, there will be slight changes for new employees. Employee contribution to the fund will increase as will contributions from the state agencies. With these decisions, the course is set for sustained strength and health of the retirement system for a number of years.

The budget for the biennium reflected \$48 million in additional funding within the probation system, for increased operating cost. Parole was fully funded to reflect the growing parole population. TDCJ also received \$6 million in additional funding for mental health services in the community. Due to reduction in the prison population, the Texas legislature reduced the TDCJ budget by \$97 million through their decision to reduce contract capacity. The agency also received 75 additional reentry coordinator positions throughout the system. Correctional staff received a 5% pay raise, effective in September. All other state employees received a 1% pay raise (with a \$50 monthly minimum) in the first year of the biennium, then an additional 2% raise in the second year. TDCJ received \$50 million in repairs funding for our facilities, \$13.8 million in vehicle capital, \$6.9 million in computer replacement and information technology funding, and just under \$13 million for an Electronic Document Management System (EDMS).

Chairman Bell asked if there were any comments. Mr. Mechler complimented the agency's leadership for their hard work. He noted that Texans are seeing history in the closing of facilities. Last year, the Central Unit closed, and now, two more facilities are scheduled to be closed. This kind of success takes a tremendous amount of effort. In regards to the two scheduled closings, Chairman Bell acknowledged that although vendors are losing business, those vendors have the opportunity to gain new business with the state by bidding on future contracts.

Mr. McCombs commented that Texas is growing by 1,000 new citizens per day, and has one of the lowest recidivism rates in America. Much of this is due to leadership; not only that of Mr.

Livingston, but also at the regional and divisional levels. The legislature also showed wisdom several years ago, by going to treatment and diversion programs. The results of those decisions are evident.

Report from the Chairman, TBCJ

1. National Probation, Parole and Community Supervision Week

Chairman Bell noted this year's National Probation, Parole and Community Supervision Week, is scheduled for the week of July 21. He encouraged recognition and appreciation of probation and parole officers as well as managerial staff for the work they do. To coincide with National Probation, Parole and Community Supervision Week, the TDCJ Community Justice Assistance Division will host its 23rd SKILLS for Effective Intervention Conference. Chairman Bell thanked Carey Welebob, Director of the Community Justice Assistant Division, and Stuart Jenkins, Director of the Parole Division, for their work, asking them to pass on the board's appreciation to their staff for a job well done.

2. Board Member Facility Tour Initiative

Chairman Bell commented on the board member facility tour initiative he launched in 2008. His goal was for every TDCJ facility to be visited by at least one member within a year's time. It was an enlightening experience for the members, and it was a well received, positive morale boost for the staff. He announced the next tour initiative, with the goal to visit every facility by the end of June 2014, and his plans to expand that goal to include visits to parole offices.

Internal Audit Status Report for Fiscal Years 2012-2013

Scott Hornung, Director for Internal Audit, provided the following revisions to the handout of the Internal Audit Status Report for the Fiscal Years (FY) 2012-2013:

- **1213 – Correctional Institutions Division, *Fleet Data Management***: The audit is complete. This is the final audit from the FY 2012 plan.
- **1304 – Manufacturing and Logistics Division, *Texas Correctional Industries, Graphics Division – Print Shop Operations***: The exit briefing was conducted, with audit responses due by June 24.
- **1311 – Business and Finance Division, *Cashier Services' Processing of Receipt***: A draft report was issued on June 13, exit conference is pending.
- **1320 – Private Facility Contract Monitoring/Oversight Division, *Substance Abuse Services Payments***: The audit has been assigned and work is proceeding.

Chairman Bell asked if there were any questions. There were none.

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Referring to materials in the board packet, Jerry McGinty, TDCJ Chief Financial Officer, explained that in June there are typically a large number of purchases presented to the board in preparation for the upcoming fiscal year. For presentation purposes, similar items were grouped together in the provided materials. The first eight items are purchases for the current biennium. Beginning with item 9, purchases are for FY 2014 and in some cases, for the FY 2014-15 biennium. Mr. McGinty reviewed all purchases.

Chairman Bell asked if there were any questions or comments. There were none. Chairman Bell remarked on the value of the substance abuse treatment programs for offenders. TDCJ's current recidivism rate is between 22-23%, which is the lowest in the country. For those programs, when aftercare is provided, the recidivism rate for this cohort drops to 7%, without the treatment however it rises above 40%.

Chairman Bell asked if there was a motion. Mr. Gambrell responded with a request to abstain from voting on this item as his law firm represents some of the companies listed. His abstention was acknowledged.

Mr. Mechler moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Mr. Vasquez noted his need to abstain due to his affiliation with coffee companies and one of the commissary items listed is coffee/cappuccino. Chairman Bell noted the two abstentions.

Terrell McCombs seconded the motion which resulted in four votes in the affirmative. (Mr. Gambrell and Mr. Vasquez abstained)

With the absence of two members and two members abstaining, Chairman Bell voted in the affirmative, providing a majority vote and allowing the motion to pass.

Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 159.1-Substance Abuse Felony Punishment Facilities Eligibility Criteria

Sharon Howell, TDCJ General Counsel, presented the proposed amendments to Board Rule 159.1 "Substance Abuse Felony Punishment Facilities Eligibility Criteria." At the last meeting, the board authorized the publication of proposed revisions to the rule in the Texas Register, and they appeared in the April 29, 2013 issue. Thirty days have passed and no comments were

received, therefore, Ms. Howell recommended the board proceed forward with final adoption of the rule.

Chairman Bell asked if there were any questions. Seeing none, He asked for a motion.

Mr. Vasquez moved that the Texas Board of Criminal Justice adopt Title 37 Texas Administrative Code section 159.1, regarding substance abuse felony punishment facilities eligibility criteria, as published in the Texas Register, and that the chairman sign the order to this effect.

Mr. Mechler seconded the motion which unanimously prevailed when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 151.51, Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines

Ms. Howell presented proposed amendments to Board Rule 151.51 “Custodial Officer Certification and Hazardous Duty Pay Eligibility Guidelines.” This rule has been updated pursuant to requirements in state law that rules be reviewed every four years. The proposed amendments are necessary to clarify and update custodial officer certification and hazardous duty pay eligibility.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. Gambrell moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code section 151.51, regarding custodial officer certification and hazardous duty pay eligibility guidelines, to receive public comment, as presented.

Mr. Wingate seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction for a Renewal of a Pipeline Easement at the Stiles Unit in Jefferson County, Beaumont, Texas

Matt Demny, Director of Agribusiness, Land, and Minerals Department, presented the Cameron Highway Oil Pipeline Company’s request to renew an existing crude oil pipeline easement at the Stiles Unit. They have agreed to pay \$252,518 for the easement with a 10 year term.

Chairman Bell asked if there were any questions. Seeing none, he asked for a motion.

Mr. McCombs moved that the Texas Board of Criminal Justice approve the request for a renewal of a pipeline easement at the Stiles Unit in Jefferson County, Beaumont, Texas, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding Facilities Division
Construction Projects Request to Replace the Fire Alarm System at the
Beto Unit in Anderson County, Palestine, Texas**

Frank Inmon, Director of the Facilities Division, presented the job scope to replace the fire alarm system at the Beto Unit in Anderson County, Palestine, Texas. He asked for board approval, for a total program cost of \$4,346,300.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. Wingate moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$4,346,300 to replace the fire alarm system at the Beto Unit in Anderson County, Palestine, Texas, as presented.

Mr. McCombs seconded the motion which prevailed unanimously when called to a vote.

**Discussion, Consideration, and Possible Action Regarding a Facilities Division
Construction Project to Replace the Fire Alarm System at the Hodge Unit in
Cherokee County, Rusk, Texas**

Mr. Inmon presented the job scope to replace the fire alarm system at the Hodge Unit. He asked for board approval, for a total program cost of \$1,005,200.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. Mechler moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,005,200 to replace the fire alarm system at the Hodge Unit in Cherokee County, Rusk, Texas, as presented.

Mr. Vasquez seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Locking Systems at the Jester IV Unit in Fort Bend County, Richmond, Texas

Mr. Inmon presented the job scope to replace locking systems at the Jester IV Unit in Fort Bend County, Richmond, Texas. He asked for board approval, for a total program cost of \$1,612,900.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. Vasquez moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$1,612,900 to replace locking systems at the Jester IV Unit in Fort Bend County, Richmond, Texas, as presented.

Carmen Hiles seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project for Kitchen Renovations at the Luther Unit in Grimes County, Navasota, Texas

Mr. Inmon presented the job scope for kitchen renovations at the Luther Unit in Grimes County, Navasota, Texas. He asked for board approval, for a total program cost of \$5,278,500.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Mr. McCombs moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$5,278,500 for kitchen renovations at the Luther Unit in Grimes County, Navasota, Texas, as presented.

Ms. Hiles seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding a Facilities Division Construction Project to Replace Roofs at the Telford Unit in Bowie County, New Boston, Texas

Mr. Inmon presented the job scope to replace roofs at the Telford Unit in Bowie County, New Boston, Texas. He asked for board approval, for a total program cost of \$6,684,100.

Chairman Bell asked if there were any questions. Seeing none, he asked if there was a motion.

Ms. Hiles moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$6,684,100 to replace roofs at the Telford Unit in Bowie County, New Boston, Texas, as presented.

Mr. Wingate seconded the motion which prevailed unanimously when called to a vote.

Chairman Bell thanked everyone for attending the meeting and announced that the next meeting of the TBCJ will be Friday, August 23, 2013, at the Wyndam Garden Hotel, in Austin.

Chairman Bell recessed the 167th meeting of the board at 1:26 p.m., noting the board would reconvene to conduct executive session following the Windham School District Board of Trustees meeting. The board reconvened at 2:13 p.m.

Adjournment

There being no further business, Chairman Bell adjourned the 167th meeting of the Texas Board of Criminal Justice at 2:47 p.m.

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Chairman

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Secretary

*Signature on File